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SPEECHES

OF

JOHN C. CALHOUN

AND

DANIEL WEBSTER,

IN THE

SENATE OF THE UNITED STATES,

ON THE

ENFORCING BILL.

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DEBATE IN CONGRESS.

IN SENATE, FRIDAY, FEBRUARY 15, 1833.

SPEECH OF MR. CALHOUN OF S. CAROLINA,

On the bill further to provide for the Collection of Duties on Imports.

Mr. CALHOUN rose and addressed the Senate.

He knew not which, he said, was most objectionable, the provision of the bill, or the temper in which its adoption had been urged. If the extraordinary powers with which the bill proposed to clothe the Executive, to the utter prostration of the Constitution, and the rights of the States, be calculated to impress our minds with alarm, at the rapid progress of despotism in our country; the zeal with which every circumstance, calculated to misrepresent or exaggerate the conduct of Carolina in the controversy, was seized on, with a view to excite hostility against her, but too plainly indicated the deep decay of that brotherly feeling which once existed between these States, and to which we are indebted for our beautiful Federal system. It was not his intention, he said, to advert to all these misrepresentations, but there were some so well calculated to mislead the mind, as to the real character of the controversy, and hold up the State in a light so odious, that he did not feel himself justified in permitting them to pass unnoticed.

Among them, one of the most prominent was the false statement, that the object of South Carolina was to exempt herself from her share of the public burthens, while she participated in the advantages of the Government. If the charge were true—if the State were capable of being actuated by such low and unworty motives, mother as he considered her, he would not stand upon this floor to vindicate her conduct. Among her faults, and faults he would not deny she had, no one had ever yet charged her with that low and most sordid of vices—avarice. Her conduct on all occasions had been marked with the very opposite quality. From the commencement of the revolution—from its first breaking out at Boston, till this hour, no State had been more profuse of its blood in the cause of the country: nor had any contributed so largely to the common treasury, in proportion to her wealth and population. She had in that proportion contributed more to the exports of the Union, on the exchange of which, with the rest of the world, the

greater portion of the public burden had been levied, than any other State. No, the controversy was not such as has been stated; the State did not seek to participate in the advantages of the Government without contributing her full share to the public treasury. Her object was far different. A deep constitutional question lay at the bottom of the controversy. The real question at issue is, has the Government a right to impose burdens on the capital and industry of one portion of the country, not with a view to revenue, but to benefit another? and he must be permitted to say, that after the long and deep agitation of this controversy, it was with surprise, that he perceived so strong a disposition to misrepresent its real character. To correct the impression, which those misrepresentations were calculated to make, he would dwell on the point under consideration for a few moments longer.

The Federal Government has by an express provision of the Constitution, the right to lay duties on imports. The State has never denied, or resisted this right; nor even thought of so doing. The Government has, however, not been contented with exercising this power as she had a right to do, but has gone a step beyond it, by laying imposts, not for revenue, but for protection. This, the State considered as an unconstitutional exercise of power—highly injurious and oppressive to her and the other staple States, and had accordingly met it with the most determined resistance. He did not intend to enter, at this time, into the argument, as to the unconstitutionality of the protective system. It was not necessary. It is sufficient that the power is no where granted; and that from the journals of the Convention which formed the Constitution, it would seem that it had been refused. In support of the journals, he might cite the statement of Luther Martin, which had been already referred to, to show that the Convention, so far from conferring the power on the Federal Government, had left to the State the right to impose duties on imports, with the express view of enabling the several States to protect their own manufactures. Notwithstanding this, Congress had assumed, without any warrant from the Constitution, the right of exercising this most important power, and had so exercised it, as to impose a ruinous burden on the labor and capital of the State, by which her resources were exhausted—the enjoyments of her citizens curtailed—the means of education contracted—and all her interests essentially and injuriously affected. We have been sneeringly told, that she was a small State; that her population did not much exceed half a million of souls; and that more than one half were not of the European race. The facts were so. He knew she never could be a great State; and that the only distinction to which she could aspire must be based on the moral and intellectual acquirements of her sons. To the developement of these, much of her attention had been directed; but this restrictive system, which had so unjustly exacted the proceeds of her labor, to be bestowed on other sections, had so im-

paired the resources of the State, that if not speedily arrested, it would dry up the means of education, and with it deprive her of the only source through which she could aspire to distinction.

There was another misstatement as to the nature of the controversy so frequently made in debate, and so well calculated to mislead, that he felt bound to notice it. It has been said, that South Carolina claims the right to annul the Constitution and laws of the United States; and to rebut this supposed claim, the gentleman from Virginia (Mr. Rives,) has gravely quoted the Constitution to prove, that the Constitution and the laws made in pursuance thereof are the supreme laws of the land; as if the State claimed the right to act contrary to this provision of the Constitution. Nothing can be more erroneous: her object is not to resist laws made in pursuance of the Constitution, but those made without its authority, and which encroach on her reserved powers. She claims not even the right of judging of the delegated powers; but of those that are reserved, and to resist the former when they encroach upon the latter. He would pause to illustrate this important point.

All must admit that there are delegated and reserved powers; and that the powers reserved are reserved to the States respectively. The powers then of the Government are divided between the General and the State Government; and the point immediately under consideration is, whether a State has any right to judge as to the extent of its reserved powers, and to defend them against the encroachments of the General Government. Without going deeply into this point, at this stage of the argument, or looking into the nature and origin of the Government, there was a simple view of the subject which he considered as conclusive. The very idea of a divided power, implied the right, on the part of the State, for which he contended. The expression was metaphorical when applied to power. Every one readily understands that the division of matter consists in the separation of the parts. But, in this sense, it was not applicable to power. What then is meant by a division of power? He could not conceive of a division, without giving an equal right to each to judge of the extent of the power allotted to each. Such right he held to be essential to the existence of a division; and that to give to either party the conclusive right of judging not only the share allotted to it, but of that allotted to the other, was to annul the division, and would confer the whole power on the party vested with such right. But it is contended that the Constitution has conferred on the Supreme Court the right of judging between the States and the General Government. Those who make this objection, overlooked, he conceived, an important provision of the Constitution. By turning to the 10th amended article of the Constitution, it will be seen that the reservation of power to the States is not only against the powers delegated to Congress, but against the United States themselves; and extends, of course, as well to the Judiciary, as to the other departments of the Government.

The article provides that all powers, not delegated to the United States, or prohibited by it to the States, are reserved to the States respectively, or to the people. This presents the inquiry, what powers are delegated to the United States? They may be classed under four divisions: First, those that are delegated by the States to each other, by virtue of which the Constitution may be altered or amended by three-fourths of the States, when, without which, it would have required the unanimous vote of all. Next, the powers conferred on Congress; then those on the President; and, finally, those on the Judicial Department; all of which are particularly enumerated in the parts of the Constitution which organizes the respective departments. The reservation of powers to the States is, as he has said, against the whole, and is as full against the judicial, as it is against the executive and legislative departments of the Government. It could not be claimed for the one, without claiming it for the whole, and without, in fact, annulling this important provision of the Constitution. Against this, as it appeared to him, conclusive view of the subject, it has been urged that this power is expressly conferred on the Supreme Court, by that portion of the Constitution which provides, that the judicial power shall extend to all cases in law and equity, arising under the Constitution, the laws of the United States, and treaties made under their authority. He believed the assertion to be utterly destitute of any foundation. It obviously was the intention of the Constitution simply to make the judicial power commensurate with the law-making and treaty-making powers; and to vest it with the right of applying the Constitution, the laws, and the treaties, to the cases which might arise under them; and not to make it the judge of the Constitution, the laws, and the treaties themselves. In fact, the power of applying the laws to the facts of the case, and deciding upon such application, constitutes in truth the judicial power. The distinction between such power, and that of judging of the laws, would be perfectly apparent when we advert to what is the acknowledged power of the Court in reference to treaties or compacts between sovereigns. It was perfectly established, that the Courts have no right to judge of the violation of treaties; and that, in reference to them, their power is limited to the right of judging, simply of the violation of rights under them; and that the right of judging of infractions belongs exclusively to the parties themselves, and not to the Courts; of which we have an example in the French treaty, which was declared by Congress null and void, in consequence of its violation by the Government of France. Without such declaration, had a French citizen sued a citizen of this country under the treaty, the Court could have taken no cognizance of its infraction; nor after such a declaration, would it have heard any argument or proof going to show that the treaty had not been violated.

The declaration of itself was conclusive on the court. But it would be asked how the court obtained the powers to pronounce

a law or treaty unconstitutional, when they come in conflict with that instrument? He did not deny that it possesses the right, but he could by no means concede that it was derived from the Constitution. It had its origin in the necessity of the case.—Where there were two or more rules established, one from a higher, the other from a lower authority, which might come into conflict, in applying them to a particular case, the judge could not avoid pronouncing in favor of the superior against the inferior. It was from this necessity, and this alone, that the power which is now set up to overrule the rights of the States, against an express provision of the Constitution, was derived. It had no other origin. That he had traced it to its true source, would be manifest from the fact, that it was a power which, so far from being conferred exclusively on the Supreme Court, as was insisted, belonged to every court—inferior and superior—State and General—and even to foreign courts.

But the Senator from Delaware, (Mr. CLAYTON,) relies on the Journals of the Convention to prove that it was the intention of that body to confer on the Supreme Court the right of deciding in the last resort between a State and the General Government. He would not follow him through the journals, as he did not deem that to be necessary to refute his argument. It was sufficient for this purpose to state, that Mr. Rutledge reported a resolution providing expressly that the United States and the States might be parties before the Supreme Court. If this proposition had been adopted, he would ask the Senator whether this very controversy between the United States and South Carolina might not have been brought before the Court? He would also ask him, whether it could be brought before the court as the Constitution now stands? If he answers the former in the affirmative, and the latter in the negative, as he must, then it is clear, his elaborate argument to the contrary notwithstanding, that the report of Mr. Rutledge was not in substance adopted as he contended; and that the Journals, so far from supporting, are in direct opposition to the position which he attempts to maintain. He might push the argument much further against the power of the court, but he did not deem it necessary, at least in this stage of the discussion. If the views which had already been presented be correct, and he did not see how they could be resisted, the conclusion was inevitable, that the reserved powers were reserved equally against every department of the Government, and as strongly against the judicial as against the other departments; and of course were left under the exclusive will of the States.

There still remained another misrepresentation of the conduct of the State, which has been made with the view of exciting odium. He alluded to the charge that South Carolina supported the Tariff of 1816, and was therefore responsible for the protective system. To determine the truth of this charge it becomes necessary to ascertain the real character of that law—whether it was a tariff for

revenue or for protection; which presents the inquiry of what was the condition of the country at that period? The late war with Great Britain had just terminated, which, with the restrictive system that preceded it, had diverted a large amount of capital and industry from commerce to manufactures, particularly to the cotton and woollen branches. There was a debt at the same time of one hundred and thirty millions of dollars hanging over the country; and the heavy war duties were still in existence. Under these circumstances the question was presented, to what point the duties ought to be reduced? That question involved another —at what time the debt ought to be paid? which was a question of policy, involving in its consideration all the circumstances connected with the then condition of the country. Among the most prominent arguments in favor of an early discharge of the debt, was, that the high duties which it would require to effect it, would have at the same time the effect of sustaining the infant manufactures, which had been forced up under the circumstances to which he had adverted. This view of the subject had a decided influence in determining in favor of an early payment of the debt. The sinking fund was accordingly raised from seven to ten millions of dollars, with the provision to apply the surplus which might remain in the Treasury, as a contingent appropriation to that fund; and the duties were graduated to meet this increased expenditure. It was thus that the policy and justice of protecting the large amount of capital and industry, which had been diverted by the measures of the Government, into new channels, as he had stated, was combined with the fiscal action of the Government, and which, while it secured a prompt payment of the debt, prevented the immense losses to the manufacturers, which would have followed a sudden and great reduction. Still, revenue was the main object, and protection but the incidental. The bill to reduce the duties was reported by the Committee of Ways and Means, and not of Manufactures; and it proposed a heavy reduction on the then existing rate of duties. But what of itself, without other evidence, was decisive as to the character of the bill, is the fact that it fixed a much higher rate of duties on the unprotected than on the protected article. He would enumerate a few leading articles only: woollen and cotton above the value of 25 cents on the square yard, though they were the leading objects of protection, were subject to a permanent duty of only 20 per cent. Iron, another leading article among the protected, had a protection of not more than 9 per cent. as fixed by the act, and of but 15 as reported in the bill. These rates were all below the average duties as fixed in the act, including the protected, the unprotected, and even the free articles. Mr. C. said he had entered into some calculation in order to ascertain the average rate of duties in the act. There was some uncertainty in the data, but he felt assured that it was not less that 30 per cent. *ad valorem*; showing an excess of the average duties above that imposed on the protected articles

enumerated, of more than 10 per cent., and thus clearly establishing the character of the measure, that it was for revenue and not protection.

Looking back, even at this distant period, with all our experience, he perceived but two errors in the act; the one in reference to iron, and the other the minimum duties on coarse cottons. As to the former, he conceived that the bill, as reported, proposed a duty relatively too low, which was still further reduced in its passage through Congress. The duty, at first, was fixed at seventy-five cents the hundred weight; but, in the last stage of its passage, it was reduced by a sort of caprice, occasioned by an unfortunate motion, to forty-five cents. This injustice was severely felt in Pennsylvania, the State, above all others, most productive of iron; and was the principal cause of that great re-action, which has since thrown her so decidedly on the side of the protective policy. The other error was that, as to coarse cottons, on which the duty was much too high, as that on iron was too low. It introduced, besides, the obnoxious minimum principle, which has since been so mischievously extended; and, to that extent he was constrained, in candor, to acknowledge, as he wished to disguise nothing, the protective principle was recognized by the act of 1816. How this was overlooked, at the time, it is not in his power to say. It escaped his observation, which he can account for only on the ground that the principle was then new, and that his attention was engaged by another important subject; the question of the currency, then so urgent, and with which, as chairman of the committee, he was particularly charged. With these exceptions, he again repeated, he saw nothing in the bill to condemn. Yet it was on the ground that the members from the State had voted for the bill, that the attempt is now made to hold up Carolina as responsible for the whole system of protection which has since followed, though she has resisted its progress in every stage. Was there ever greater injustice? And how was it to be accounted for, but as forming a part of that systematic misrepresentation and calumny, which has been directed for so many years, without interruption, against that gallant and generous State. And why has she thus been assailed? Merely because she abstained from taking any part in the Presidential canvass; believing that it had degenerated into a mere system of imposition on the people; controlled, almost exclusively, by those whose object it was to obtain the patronage of the Government; and that, without regard to principle or policy. Standing apart from what she considered a contest, in which the public had no interest, she has been assailed by both parties, with a fury altogether unparalleled; but which, pursuing the course which she believed liberty and duty required, she has met with a firmness equal to the fierceness of the assault. In the midst of this attack, he had not escaped. With a view of inflicting a wound on the State, through him, he had been held up as the author of the protective system; and one of its most stren-

uous advocates. It was with pain that he alluded to himself, on so deep and grave a subject as that now under discussion; and which, he sincerely believed, involved the liberty of the country. He now regretted, that under the sense of injustice, which the remarks of a Senator from Pennsylvania, (Mr. WILKINS,) excited for the moment, he had hastily given his pledge to defend himself against the charge which had been made in reference to his course in 1816; not that there would be any difficulty in repelling the charge, but because he felt a deep reluctance in turning the discussion, in any degree, from a subject of so much magnitude to one of so little importance as the consistency or inconsistency of himself, or any other individual; particularly in connexion with an event so long since passed. But for this hasty pledge, he would have remained silent as to his own course, on this occasion, and would have borne, with patience and calmness, this, with many other misrepresentations with which he had been so incessantly assailed for many years.

The charge that he was the author of the protective system had no other foundation but that he, in common with the almost entire South, gave his support to the tariff of 1816. It is true, that he advocated that measure, for which he might rest his defence, without taking any other, on the ground that it was a tariff for revenue, and not for protection; which he had established beyond the power of controversy. But his speech on the occasion had been brought in judgment against him by the Senator from Pennsylvania. He had since cast his eyes over the speech; and he would surprise, he had no doubt, the Senator, by telling him that, with the exception of some hasty and unguarded expressions, that he retracted nothing he had uttered on that occasion. He only asked that he might be judged in reference to it, in that spirit of fairness and justice which was due to the occasion; taking into consideration the circumstances under which it was delivered, and bearing in mind that the subject was a tariff for revenue, and not for protection; for reducing and not raising the revenue. But before he explained the then condition of the country, from which his main arguments in favor of the measure were drawn, it was nothing but an act of justice to himself, that he should state a fact in connexion with his speech, that was necessary to explain what he had called hasty and unguarded expressions. His speech was an *impromptu*; and, as such, he apologized to the House, as appears from the speech as printed, for offering his sentiments on the question without having duly reflected on the subject. It was delivered at the request of a friend, when he had not previously the least intention of addressing the House; he alluded to Samuel D. Ingham, then and now, as he was proud to say, a personal and political friend—a man of talents and integrity—with a clear head and firm and patriotic heart; then among the leading members of the House; in the palmy state of his political glory, though now for a moment depressed—depressed, did he say—no! it was his State which was de-

pressed—Pennsylvania, and not Samuel D. Ingham! Pennsylvania, which had deserted him under circumstances which, instead of depressing, ought to have elevated him in her estimation. He came to me, said Mr C. when sitting at my desk writing, and said that the House were falling into some confusion, accompanying it with a remark, that I knew how difficult it was to rally so large a body when once broken on a tax bill, as had been experienced during the late war. Having a higher opinion of my influence than it deserved, he requested me to say something to prevent the confusion. I replied, said Mr C. that I was at a loss what to say; that I had been busily engaged on the currency, which was then in great confusion, and which, as I had stated, had been placed particularly under my charge, as the chairman of the committee on that subject. He repeated his request, and the speech which the Senator from Pennsylvania has complimented so highly was the result.

He [Mr C.] would ask, whether the facts stated ought not, in justice, to be borne in mind by those who would hold him accountable, not only for the general scope of the speech, but for every word and sentence which it contained. But, said Mr C. in asking this question, it was not his intention to repudiate the speech. All he asked was, that he might be judged by the rules which in justice belonged to the case. Let it be recollected that the bill was a revenue bill, and, of course, that it was constitutional. He need not not remind the Senate, that when the measure is constitutional, all arguments calculated to show its beneficial operation may be legitimately pressed into service, without taking into consideration whether the subject to which the arguments refer be within the sphere of the constitution or not. If, for instance, a question were before the body to lay a duty on bibles, and a motion be made to reduce the duty, or admit bibles duty free, who could doubt that the argument in favor of the motion that the increased circulation of the bible would be in favor of the morality and religion of the country, would be strictly proper? Or, who would suppose that he who had adduced it had committed himself, on the constitutionality of taking the religion or morals of the country under the charge of the Federal Government? Again: Suppose the question to be to raise the duty on silk, or any other article of luxury, and that it should be supported on the ground that it was an article mainly consumed by the rich and extravagant, could it be fairly inferred that, in the opinion of the speaker, Congress had a right to pass sumptuary laws? He only asked that these plain rules be applied to his argument on the tariff of 1816. They turned almost entirely on the benefits which manufactures conferred on the countyr in time of war: and which no one could doubt. The country had recently passed through such a state. The world was, at that time, deeply agitated by the effects of the great conflict which had so long raged in Europe, and which no one could tell how soon again might return. Bonaparte had but recently been overthrown; the whole southern part of this continent was in a state of revolu-

tion, and was threatened with the interference of the Holy Alliance, which, had it occurred, must almost necessarily have involved this country in a most dangerous conflict. It was under these circumstances that he had delivered the speech, in which he urged the House, that, in the adjustment of the Tariff, reference ought to be had to a state of war, as well as peace; and that its provisions ought to be fixed on the compound views of the two periods—making some sacrifice in peace in order that the less might be made in war. Was this principle false? and, in urging it, did he commit himself to that system of oppression since grown up, and which has for its object the enriching of one portion of the country at the expense of the other?

Mr. C. said, the plain rule in all such cases was, that when a measure was proposed, the first thing is to ascertain its constitutionality: and, that being ascertained, the next was its expediency, which last opened the whole field of argument for and against.—Every topic may be urged calculated to prove it wise or unwise—so in a bill to raise imposts. It must first be ascertained that the bill is based on the principles of revenue, and that the money raised is necessary for the wants of the country. These being ascertained, every argument, direct and indirect, may be fairly offered, which may go to show that, under all the circumstances, the provisions of the bill are proper or improper. Had this plain and simple rule been adhered to, we should never have heard of the complaint of Carolina. Her objection is not against the improper modification of a bill acknowledged to be for revenue; but that, under the name of imposts, a power, essentially different from the taxing power, is exercised—partaking much more of the character of a penalty than a tax. Nothing is more common than that things closely resembling in appearance should widely and essentially differ in their character. Arsenic, for instance, resembles flour, yet one is a deadly poison, and the other that which constitutes the staff of life. So, duties imposed, whether for revenue or protection, may be called imposts, though nominally and apparently the same, yet differ essentially in their real character.

Mr. C. said he should now return to his speech on the Tariff of 1816. To determine what his opinions really were on the subject of protection at that time, it would be proper to advert to his sentiments before and after that period. His sentiments preceding 1816, on this subject, are matter of record. He came into Congress in 1812, a devoted friend and supporter of the then administration; yet one of his first efforts was to brave the administration, by opposing its favorite measure, the restrictive system—embargo, non-intercourse, and all—and that upon the principle of free trade. The system remained in fashion for a time; but, after the overthrow of Bonaparte, he (Mr. C.) had reported a bill from the Committee on Foreign Relations, to repeal the whole system of restrictive measures. While the bill was under consideration

a worthy man, then a member of the House, (Mr. McKim, of Baltimore,) moved to except the non-importation act, which he supported on the ground of encouragement to manufactures. He (Mr C.) resisted the motion on the very grounds on which Mr. McKim supported it. He maintained that the manufacturers were then receiving too much protection, and warned its friends that the withdrawal of the protection which the war and the high duties then afforded, would cause great embarrassment; and that the true policy in the mean time was to admit foreign goods as freely as possible, in order to diminish the anticipated embarrassment on the return of peace; intimating at the same time his desire to see the Tariff revised, with a view of affording a moderate and permanent protection.*

Such was his conduct before 1816. Shortly after that period, he left Congress, and had no opportunity of making known his sentiments in reference to the protective system, which shortly after began to be agitated. But he had the most conclusive evidence that he considered the arrangement of the revenue in 1816 as growing out of the necessity of the case, and due to the consideration of justice, but that, even at that early period, he was not without his fears, that even that arrangement would lead to abuse and future difficulties. He regretted that he had been compelled to dwell so long on himself; but trusted that whatever censure might be incurred would not be directed against him, but against those who had drawn his conduct into the controversy; and who might hope, by assailing his motives, to wound the cause with which he was proud to be identified.

He might add, that all the Southern States voted with South Carolina in support of the bill; not that they had any interest in manufactures, but on the ground that they had supported the war, and of course felt a corresponding obligation to sustain those establishments which had grown up under the encouragement it had incidentally afforded; while most of the New England members were opposed to the measure, principally, as he believed, on opposite principles.

He had now, he trusted, satisfactorily repelled the charge against the State and himself personally, in reference to the Tariff of 1816. Whatever support the State had given the bill had originated in the most disinterested motives.

There was not within the limits of the State, so far as his memory served him, a single cotton or woollen establishment. Her whole dependence was on agriculture, and the cultivation of two great staples, rice and cotton. Her obvious policy was to keep open the market of the world unchecked and unrestricted—to buy cheap, and to sell high; but, from a feeling of kindness, combined with a sense of justice, she added her support to the bill. We had been told by the agents of the manufacturers, that the protection which the measure afforded would be sufficient; to which

*See Mr. C's Speech in the National Intelligencer, April, 1814.

we the more readily conceded, as it was considered as a final adjustment of the question.

Let us now, said Mr. C. turn our eyes forward, and see what has been the conduct of the parties to this arrangement. Have Carolina and the South disturbed this adjustment? No, they have never raised their voice in a single instance against it; even though this measure, moderate comparatively as it is, was felt with no inconsiderable pressure on their interests. Was this example imitated on the opposite side? Far otherwise. Scarcely had the President signed his name, before application was made for an increase of duties, which was repeated with demands continually growing, till the passage of the act of 1828. What course, now, he would ask, did it become Carolina to pursue in reference to these demands? Instead of acquiescing in them, because she had acted generously in adjusting the Tariff of 1816, she saw, in her generosity on that occasion, additional motives for that firm and decided resistance which she has since made against the system of protection. She accordingly commenced a systematic opposition to all further encroachments, which continued from 1818 till 1828, by discussions and by resolutions, by remonstrances and by protests, through her Legislature. These all proved insufficient to stem the current of encroachment; but notwithstanding the heavy pressure on her industry, she never despaired of relief, till the passage of the act of 1828—that bill of abominations—engendered by avarice and political intrigue. Its adoption opened the eyes of the State, and gave a new character to the controversy. Till then the question had been whether the protective system was constitutional and expedient, but after that she no longer considered the question whether the right of regulating the industry of the States was a reserved or delegated power, but what right a State possesses to defend her reserved powers against the encroachments of the Federal Government—a question on the decision of which the value of all the reserved powers depends. The passage of the act of 1828, with all its objectionable features, and under the odious circumstances under which it was adopted, had almost, if not entirely, closed the door of hope through the General Government. It afforded conclusive evidence that no reasonable prospect of relief from Congress could be entertained; yet the near approach of the period of the payment of the public debt, and elevation of General Jackson to the Presidency, still afforded a ray of hope—not so strong, however, as to prevent the State from turning her eyes, for a final relief, to her reserved powers.

Under these circumstances commenced that inquiry into the nature and extent of the reserved powers of a State, and the means which they afforded of resistance against the encroachments of the General Government; which has been pursued with so much zeal and energy, and he might add intelligence. Never was there a political discussion carried on with greater activity, and which ap-

pealed more directly to the intelligence of a community. Throughout the whole, no address was made to the low and vulgar passions. But, on the contrary, the discussion turned upon the higher principles of political economy, connected with the operations of the Tariff system, which are calculated to show its real bearing on the interests of the State, and on the structure of our political system; going to show the true character of the relations between the State and the General Government; and the means which the States possess of defending those powers which they reserved in forming the Federal Government.

In this great canvass, men of the most commanding talents and acquirements engaged with the greatest ardor; and the people were addressed through every channel; by essays in the public press, and by speeches in their public assemblies, until they had become thoroughly instructed on the nature of the oppression, and on the rights which they possess, under the constitution, to throw them off.

If gentlemen suppose that the stand taken by the People of Carolina rests on passion and delusion, they are wholly mistaken. The case was far otherwise. No community, from the legislator to the ploughman, were ever better instructed in their rights; and the resistance, on which the State had resolved, was the result of mature reflection accompanied with a deep conviction that their rights had been violated, and the means of redress which they have adopted, are consistent with the principles of the Constitution.

But while this active canvass was carried on, which looked to the reserved powers, as their final redress, if all others failed, the State at the same time cherished a hope, as I have already stated, that the election of General Jackson to the Presidency, would prevent the necessity of a resort to extremities. He was identified with the interests of the staple States; and, having the same interest, it was believed that his great popularity—a popularity of the strongest character, as it rested on military services, would enable him, as they hoped, gradually to bring down the system of protection, without shock or injury to any interest. Under these views, the canvass in favor of General Jackson's election to the Presidency was carried on with great zeal, in conjunction with that active inquiry into the reserved powers of the States, on which final reliance was placed. But little did the people of Carolina dream, that the man whom they were thus striving to elevate to the highest seat of power, would prove so utterly false to all their hopes. Man is, indeed, ignorant of the future; nor was there ever a stronger illustration of the observation than is afforded by the result of that election! The very event on which they had built their hopes, has been turned against them, and the very individual to whom they looked as a deliverer, and whom, under that impression, they strove, for so many years, to elevate to power, is now the most powerful instrument in the hands of his and their bitterest opponents to put down them and their cause!

Scarcely had he been elected, when it became apparent, from the organization of his Cabinet, and other indications, that all their hopes of relief, through him, were blasted. The admission of a single individual into the Cabinet, under the circumstances which accompanied that admission, threw all into confusion. The mischievous influence over the President, through which this individual was admitted into the Cabinet, soon became apparent. Instead of turning his eyes forward to the period of the payment of the public debt, which was then near at hand, and to the present dangerous political crisis, which was inevitable, unless averted by a timely and wise system of measures, the attention of the President was absorbed by mere party arrangements, and circumstances too disreputable to be mentioned here, except by the most distant allusion.

Here, Mr. C. said, he must pause for a moment, to repel a charge which has been so often made, and which even the President has reiterated in his proclamation. The charge that he had been actuated, in the part which he had taken, by feelings of disappointed ambition. Mr. C again repeated, that he deeply regretted the necessity of noticing himself in so important a discussion, and that nothing could induce him to advert to his own course but the conviction that it was due to the cause, at which a blow was aimed, through him. It was only in this view that he noticed it.

Mr. C. said, it illy became the Chief Magistrate to make this charge. The course which the State had taken, and which had led to the present controversy between her and the General Government, was taken as far back as 1828; in the very midst of that severe canvass which placed him in power; and in that very canvass Carolina had openly avowed and zealously maintained these very principles which he now officially pronounces to be treason and rebellion. That was the period at which he ought to have spoken. Having remained silent then, and having, under his approval, implied by that silence, received the support and the vote of the State, he, (Mr. C.,) if a sense of decorum did not prevent it, might recriminate, with the double charge of deception and ingratitude. His object, however, was not to assail the President, but to defend himself against a most unfounded charge. The time alone, at which the course upon which this charge of *disappointed ambition* is founded, will, of itself, repel it in the eye of every unprejudiced and honest man. The doctrine which he now sustains, under the present difficulties, he openly avowed and maintained immediately after the act of 1828, that "bill of abominations," as it has been so often and properly termed. Was he at that period disappointed in any views of ambition which he might be supposed to entertain? He was Vice President of the United States, elected by an overwhelming majority. He was a candidate for re-election on the ticket with General Jackson himself, with a certain prospect of a triumphant success of that ticket, and with

a fair prospect of the highest office to which an American citizen could aspire. What was his course under these prospects? Did he look to his own advancement, or to an honest and faithful discharge of his duty? Let facts speak for themselves. When the bill to which he had referred came from the other House to the Senate, the almost universal impression was, that its fate would depend upon his casting vote. It was known that, as the bill then stood, the Senate was nearly equally divided, and as it was a combined measure, originating with the politicians and manufacturers, and intended as much to bear upon the Presidential election as to protect manufactures, it was believed that, as a stroke of political policy, its fate would be made to depend on his vote, in order to defeat General Jackson's election, as well as his own. The friends of General Jackson were alarmed, and he, (Mr. C.) was earnestly entreated to leave the chair, in order to avoid the responsibility, under the plausible argument that if the Senate should be equally divided, the bill would be lost without the aid of his casting vote. The reply to this entreaty was, that no consideration, personal to himself, could induce him to take such a course. That he considered the measure as of the most dangerous character, calculated to produce the most fearful crisis; that the payment of the public debt was just at hand, and that the great increase of revenue which it would pour into the Treasury would accelerate the approach of that period; and that the country would be placed in the most trying of all situations; with an immense revenue, without the means of absorption, upon any legitimate or constitutional object of appropriation, and would be compelled to submit to all the corrupting consequences of a large surplus, or to make a sudden reduction of the rates of duties, which would prove ruinous to the very interests which were then forcing the passage of the bill. Under these views, he determined to remain in the chair, and if the bill came to him, to give his casting vote against it, and in doing so, to give his reasons at large; but at the same time, he informed his friends that he would retire from the ticket, so that the election of General Jackson might not be embarrassed by any act of his. Sir, (said Mr. C.) I was amazed at the folly and infatuation of that period. So completely absorbed was Congress in the game of ambition and avarice, from the double impulse of the manufacturers and politicians, that none but a few appeared to anticipate the present crisis, at which now all are alarmed; but which is the inevitable result of what was then done. As to himself, he clearly foresaw what has since followed. The road of ambition lay open before him; he had but to follow the corrupt tendency of the times—but he chose to tread the rugged path of duty.

It was thus that the reasonable hope of relief, through the election of General Jackson, was blasted; but still, one other hope remained; that the final discharge of the public debt, an event near at hand, would remove our burden. That event would leave in the Treasury a large surplus; a surplus that could not be ex-

pended under the most extravagant schemes of appropriation, having the least color of decency or constitutionality. That event, at last, arrived. At the last session of Congress, it was avowed on all sides, that the public debt, for all practical purposes, was, in fact, paid; the small surplus remaining being nearly covered by the money in the treasury and the bonds for duties which had already accrued; but with the arrival of this event, our last hope was doomed to be disappointed. After a long session of many months, and the most earnest effort on the part of South Carolina and the other Southern States, to obtain relief, all that could be effected was a small reduction in the amount of the duties; but a reduction of such a character, that while it diminished the amount of burden, distributed that burden more unequally than even the obnoxious act of 1828: reversing the principle adopted by the bill of 1816, of laying higher duties on the unprotected than the protected articles, by repealing almost entirely the duties laid upon the former, and imposing the burden almost entirely on the latter. It was thus, that instead of relief—instead of an equal distribution of the burdens and benefits of the Government, on the payment of the debt, as had been fondly anticipated, the duties were so arranged as to be, in fact bounties on one side, and taxation on the other, and thus placing the two great sections of the country in direct conflict in reference to its fiscal action, and thereby letting in that flood of political corruption which threatens to sweep away our Constitution and our liberty.

This unequal and unjust arrangement was pronounced, both by the administration, through its proper organ, the Secretary of the Treasury, and by the opposition, to be a *permanent* adjustment; and it was thus that all hope of relief through the action of the General Government terminated, and the crisis so long apprehended has at length arrived, at which the State was compelled to choose between absolute acquiesence in a ruinous system of oppression, or a resort to her reserved powers—powers of which she alone was the rightful judge, and which only in this momentous juncture, could save her. She determined on the latter.

The consent of two thirds of her legislature was necessary for the call of a Convention, which was considered the only legitimate organ through which the People in their sovereignty, could speak. After an arduous struggle, the State rights party succeeded; more than two-thirds of both branches of the legislature favorable to a Convention were elected; a Convention was called; the Ordinance adopted. The Convention was succeeded by a meeting of the Legislature, when the laws to carry the Ordinance into execution, were enacted; all of which had been communicated by the President—had been referred to the Committee on the Judiciary, and this bill is the result of their labor.

Having now, said Mr. C., corrected some of the prominent misrepresentations, as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, he

would next proceed to notice some objections connected with the Ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath—which, an effort has been made to render odious. So far from deserving the denunciation which had been levelled against it, he viewed this provision of the Ordinance as but the natural result of the doctrines entertained by the State, and the position which she occupies. The people of that State believe that the Union is a union of States, and not of individuals; that it was formed by the States, and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the Constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon the citizens,—thus believing it was the opinion of the people of Carolina, that it belonged to the State which had imposed the obligation, to declare, in the last resort, the extent of that obligation, as far as her citizent were concerned; and this, upon the plain principles which exist in all analagous cases of compact, between sovereign or political bodies. On this principle the people of the State, acting in their sovereign capacity, in Convention, precisely as they had adopted their own and the Federal Constitutions, had declared by the Ordinance, that the acts of Congress which had imposed duties under the authority to lay imposts, were acts, not for revenue, as intended by the Constitution, but for protection, and therefore null and void. The Ordinance thus enacted by the people of the State themselves, acting as a sovereign community, was, to all intents and purposes, a part of the Constitution of the State; and though of a peculiar character, was as obligatory on the citizens of that State, as any portion of the constitution. In prescribing, then, the oath to obey the Ordinance, no more was done than to prescribe an oath to obey the Constitution. It was, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed under the Constitution of the United States, to be administered to all officers of the State and Federal Governments; and was no more deserving the harsh and bitter epithets which had been heaped upon it, than that or any similar oath.

It ought to be borne in mind, that, according to the opinion which prevailed in Carolina, the right of resistance to the unconstitutional laws of Congress belongs to the State, and not to her individual citizens, and that, though the latter may, in a mere question of *meum* and *tuum*, resist, through the courts, an unconstitutional encroachment upon their rights; yet the final stand against usurpation rests not with them, but with the State of which they are members; and that such act of resistance by a State, binds the conscience and allegiance of the citizen. But there appeared to be a general misapprehension as to the extent to which the State had acted under this part of the Ordinance. Instead of sweeping every officer, by a general proscription of the minority,

as has been represented in debate, as far as the knowledge of Mr. C. extends, not a single individual had been removed. The State had, in fact, acted with the greatest tenderness, all circumstances considered, towards citizens who differed from the majority; and, in that spirit, had directed the oath to be administered, only in cases of some official act directed to be performed, in which obedience to the Ordinance was involved.

It has been further objected that the State had acted precipitately. What! precipitately! after making a strenuous resistance for twelve years—by discussion here and in the other house of Congress—by essays in all forms—by resolutions, remonstrances, and protests on the part of her Legislature, and finally by attempting an appeal to the judicial power of the United States? He said attempting, for they had been prevented from bringing the question fairly before the court, and that by an act of that very majority in Congress which now upbraid them for not making that appeal; of that majority, who, on a motion of one of the members in the other house from South Carolina, refused to give to the act of 1828 its true title; that it was a *protective*, and not a *revenue* act. The State has never, it is true, relied upon that tribunal, the Supreme Court, to vindicate its reserved rights; yet they have always considered it as an auxiliary means of defence, of which they would gladly have availed themselves to test the constitutionality of protection, had they not been deprived of the means of doing so by the act of the majority.

Notwithstanding this long delay of more than ten years, under this continued encroachment of the Government, we now hear it on all sides, by friends and foes, gravely pronounced that the State has acted precipitately—that her conduct has been rash!—That such should be the language of an interested majority, who, by means of this unconstitutional and oppressive system, are annually extorting millions from the South, to be bestowed upon other sections, was not at all surprising. Whatever impedes the course of avarice and ambition will ever be denounced as rash and precipitate; and had South Carolina delayed her resistance fifty instead of twelve years, she would have heard from the same quarter the same language; but it was really surprising that those who are suffering in common with herself, and who are complaining equally loud of their grievances, who had pronounced the very acts which she had asserted within *her* limits to be oppressive, unconstitutional, and ruinous, after so long a struggle—a struggle longer than that which preceded the separation of these States from the mother country—longer than the period of the Trojan war—should now complain of precipitancy!! No, it is not Carolina which has acted precipitately, but her sister States, who have suffered in common with her, that have acted tardily. Had they acted as she has done—had they performed their duty with equal energy and promptness, our situation this day would be very different from what we now find it. Delays are said to be dan-

gerous; and never was the maxim more true than in the present case—a case of monopoly. It is the very nature of monopolies to grow. If we take from one side a large portion of the proceeds of its labor and give it to the other, the side from which we take must constantly decay, and that to which we give must prosper and increase. Such is the action of the protective system. It exacts from the South a large portion of the proceeds of its industry, which it bestows upon the other sections in the shape of bounties to manufactures, and appropriations in a thousand forms—pensions, improvement of rivers and harbors, roads and canals, and in every shape that wit or ingenuity can devise. Can we then be surprised that the principle of monopoly grows, when it is so amply remunerated at the expense of those who support it? And this is the real reason of the fact which we witness, that all acts for protection pass with small minorities, but soon come to be sustained by great and overwhelming majorities. Those who seek the monopoly, endeavor to obtain it in the most exclusive shape: and they take care, accordingly, to associate only a sufficient number of interests barely to pass it through the two houses of Congress—on the plain principle that the greater the number from whom the monopoly takes, and the fewer on whom it bestows, the greater is the advantage to the monopolists. Acting in this spirit, we have often seen with what exact precision they count, adding wool to woollens, associating lead and iron, feeling their way, until a bare majority is obtained, when the bill passes, connecting just as many interests as is sufficient to ensure its success, and no more. In a short time, however, we have invariably found that this *lean*, becomes a decided majority, under the certain operation which compels individuals to desert the pursuits which the monopoly have rendered unprofitable, that they may participate in those pursuits which it has rendered profitable. It is against this dangerous and growing disease which South Carolina has acted—a disease whose cancerous action would soon spread to every part of the system, had it not been speedily arrested.

There was another powerful reason why the action of the State could not be safely delayed. The public debt, as he had already stated, for all practical pusposes, had already been paid; and, under the existing duties, a large annual surplus, of many millions, must come into the Treasury. It was impossible to look at this state of things without seeing the most mischievous consequences; and, among others, if not speedily corrected, it would interpose powerful and almost insuperable obstacles to throwing off the burden under which the south has been so long laboring. The disposition of the surplus would become a subject of violent and corrupt struggle, and could not fail to rear up new and powerful interests in support of the existing system: not only in those sections which have been heretofore benefitted by it, but even in the south itself. He could not but trace to the anticipation of this state of the Treasury the sudden and extraordinary movements

which had taken place, at the last session, in the Virginia Legislature, in which the whole south was vitally interested. It was impossible for any rational man to believe that that State could seriously have thought of effecting the scheme to which he alluded, by her own resources, without powerful aid from the General Government.

It was next objected, that the enforcing acts have legislated the United States out of South Carolina. He had already replied to this objection on another occasion, and would now but repeat what he then said—that they had been legislated out only to the extent, that they had no right to enter. The Constitution had admitted the jurisdiction of the United States within the limits of the several States, only so far as the delegated powers authorized; beyond that they were intruders, and might rightfully be expelled; and that they had been efficiently expelled by the legislation of the State through her civil process, as has been acknowledged on all sides in the debate, is only a confirmation of the truth of the doctrine for which the majority in Carolina had contended.

The very point at issue between the two parties there, was, whether nullification was a peaceable and an efficient remedy against an unconstitutional act of the General Government, and which might be asserted as such through the State tribunals. Both parties agree, that the acts against which it was directed are unconstitutional and oppressive. The controversy was only as to this means by which our citizens might be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority, being an efficient protection of the citizens through the State tribunals; the measures adopted to enforce the ordinance, of course, received the most decisive character. We were not children, to act by halves. Yet, for acting thus efficiently, the State is denounced, and this bill, reported to over-rule, by military force, the civil tribunals and civil process of the State! Sir, said Mr. C., I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgement that nullification is peaceful and efficient; and so deeply entrenched in the principles of our system, that it cannot be assailed but by prostrating the Constitution and substituting the supremacy of military force in lieu of the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional, that they infract the Constitution of South Carolina, although, to him, the objection appears absurd, as it was adopted by the very authority which adopted the Constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then, do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy

which they claim for the laws of Congress? The State stands pledged to resist no process of the Court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given. That, in a contest between the State and the General Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy; and must triumph over the Federal Government, sustained by its delegated and limited authority; and, in this answer, we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended.

Having made these remarks, the great question is now presented: has Congress the right to pass this bill? Which he would next proceed to consider. The decision of this question involves the inquiry into the provisions of the bill. What are they? It puts at the disposal of the President, the army and navy, and the entire militia of the country.—It enables him, at his pleasure, to subject every man in the United States, not exempt from militia duty, to martial law—to call him from his ordinary occupation, to the field, and under the penalty of fine and imprisonment inflicted by a court martial, to imbrue his hand in his brother's blood.—There is no limitation on the power of the sword, and that over the purse is equally without restraint; for among the extraordinary features of the bill, it contains no appropriation, which, under existing circumstances, is tantamount to an unlimited appropriation. The President may, under its authority, incur any expenditure, and pledge the national faith to meet it. He may create a new national debt, at the very moment of the termination of the former—a debt of millions to be paid out of the proceeds of the labor of that section of the country whose dearest constitutional rights this bill prostrates! Thus exhibiting the extraordinary spectacle, that the very section of the country which is urging this measure, and carrying the sword of devastation against us, are at the same time incurring a new debt, to be paid by those whose rights are violated; while those who violate them are to receive the benefits, in the shape of bounties and expenditures.

And for what purpose is the unlimited control of the purse and of the sword thus placed at the disposition of the Executive? To make war against one of the free and sovereign members of this confederation; which the bill proposes to deal with, not as a State, but as a collection of banditti or outlaws. Thus exhibiting the impious spectacle of this Government, the creature of the States, making war against the power to which it owes its existence.

The bill violates the Constitution, plainly and palpably, in many of its provisions, by authorizing the President, at his pleasure, to place the different ports of this Union on an unequal footing,

contrary to that provision of the Constitution which declares that no preference should be given to one port over another. It also violates the Constitution, by authorising him, at his discretion, to impose cash duties on one port, while credit is allowed in others; by enabling the President to regulate commerce, a power vested in Congress alone; and by drawing within the jurisdiction of the United States' courts, powers never intended to be conferred on them. As great as these objections were, they became insignificant in the provisions of a bill which, by a single blow,—by treating the States as a mere lawless mass of individuals—prostrates all the barriers of the Constitution. He would pass over the minor considerations, and proceed directly to the great point.—This bill proceeds on the ground that the entire sovereignty of this country belongs to the American people, as forming one great community; and regards the States as mere fractions or counties, and not as an integral part of the Union; having no more right to resist the encroachments of the Government than a county has to resist the authority of a State; and treating such resistance as the lawless acts of so many individuals, without possessing sovereignty or political rights. It has been said that the bill declares war against South Carolina. No. It decrees a massacre of her citizens! War has something ennobling about it, and with all its horrors, brings into action the highest qualities, intellectual and moral. It was, perhaps, in the order of Providence, that it should be permitted for that very purpose. But this bill declares no war, except, indeed, it be that which savages wage—a war, not against the community, but the citizens of whom that community is composed. But he regarded it as worse than *savage* warfare—as an attempt to take away life under the color of law, without the trial by jury or any other safe-guard which the Constitution has thrown around the life of the citizen! It authorizes the President or even his deputies, when they may suppose the law to be violated, without the intervention of a court or jury, to kill without mercy or discrimination!

It was said by the Senator from Tennessee, (Mr. Grundy,) to be a measure of peace! Yes, such peace as the wolf gives to the lamb; the kite to the dove! Such peace as Russia gives to Poland; or death to its victim! A peace by extinguishing the political existence of the State, by awing her into an abandonment of the exercise of every power which constitutes her a sovereign community. It is to South Carolina a question of self-preservation, and I proclaim it, that, should this bill pass, and an attempt be made to enforce it, it will be resisted, at every hazard—even that of death itself. Death is not the greatest calamity: there are others still more terrible to the free and brave; and among them may be placed the loss of liberty and honor. There are thousands of her brave sons who, if need be, are prepared cheerfully to lay down their lives in defence of the State, and the great principles of constitutional liberty for which she is contending. God

forbid that this should become necessary. It never can be, unless this Government is resolved to bring the question to extremity, when her gallant sons will stand prepared to perform the last duty; to die nobly.

I go (said Mr. Calhoun) on the ground that this Constitution was made by the States; that it is a federal union of the States, in which the several States still retain their sovereignty. If these views be correct, he had not characterized the bill too strongly, which presents the question, whether they be or be not. He would not enter into the discussion of that question now. He would rest it, for the present, on what he had said on the introduction of the resolutions now on the table, under a hope that another opportunity would be afforded for more ample discussion. He would for the present confine his remarks to the objections which had been raised to the views which he had presented when he introduced them.—The authority of Luther Martin had been adduced by the Senator from Delaware, to prove that the citizens of a State, acting under the authority of a State, were liable to be punished as traitors by this Government. As eminent as Mr. Martin was, as a lawyer, and as high as his authority might be considered, on a legal point, he could not accept it, in determining the point at issue. The attitude which he occupied, if taken into view, would lessen, if not destroy, the weight of his authority. He had been violently opposed, in Convention, to the Constitution, and the very letter from which the Senator has quoted, was intended to dissuade Maryland from its adoption. With this view, it was to be expected that every consideration calculated to effect that object should be urged; that real objections should be exaggerated, and that those having no foundation, except mere plausible deductions, should be presented. It is to this spirit that he attributed the opinion of Mr. Martin, in reference to the point under consideration. But if his authority is good on one point, it must be admitted to be equally so on another. If his opinion be sufficient to prove that a citizen of the State may be punished as a traitor when acting under allegiance to the State, it is also sufficient to show, that no authority was intended to be given in the Constitution for the protection of manufactures by the General Government, and that the provision in the Constitution, permitting a State to lay an impost duty, with the consent of Congress, was intended to reserve the right of protection to the States themselves, and that each State should protect its own industry. Assuming his opinion to be of equal authority on both points, how embarrassing would be the attitude in which it would place the Senator from Delaware, and those with whom he is acting,—that of using the sword and the bayonet to enforce the execution of an unconstitutional act of Congress. He must express his surprise that the slightest authority in favor of *power* should be received as the most conclusive evidence, while that which is at least equally strong in favor of right and *liberty*, is wholly overlooked or rejected.

Notwithstanding all that has been said, he must say, that neither the Senator from Delaware, (Mr. Clayton,) nor any other who had spoken on the same side, had directly and fairly met the great questions at issue: Is this a Federal union? a union of States, as distinct from that of individuals? Is the sovereignty in the several States, or in the American people in the aggregate? The very language which we are compelled to use, when speaking of our political institutions, affords proof conclusive as to its real character. The terms union, federal, united, all imply a combination of sovereignties, a confederation of States. They are never applied to an association of individuals. Who ever heard of the United State of New York, of Massachusetts, or of Virginia? Who ever heard the term Federal, or Union, applied to the aggregation of individuals into one community? Nor is the other point less clear—that the sovereignty is in the several States, and that our system is a union of twenty-four sovereign powers, under a constitutional compact, and not of a divided sovereignty between the States severally and the United States. In spite of all that had been said, he maintained that sovereigty is is, in its nature, indivisible. It is the supreme power in a State, and we might just as well speak of half a square, or half of a triangle, as of half a sovereignty. It is a gross error to confound the *exercise* of sovereign powers with *sovereignty* itself; or the *delegation* of such powers with a *surrender* of them. A sovereign may delegate his powers to be exercised by as many agents, as he may think proper, under such conditions and with such limitations as he may impose; but to surrender any portion of his sovereignty to another is to annihilate the whole. The Senator from Delaware (Mr. Clayton) calls this metaphysical reasoning, which, he says, he cannot comprehend. If by metaphysics he means that scholastic refinement which makes distinctions without difference, no one can hold it in more utter contempt than he, (Mr. C.,) but if, on the contrary, he means the power of analysis and combination—that power which reduces the most complex idea into its elements, which traces causes to their first principle, and, by the power of generalisation and combination, unites the whole in one harmonious system; then, so far from deserving contempt, it is the highest attribute of the human mind. It is the power which raises man above the brute—which distinguishes his faculties from mere sagacity, which he holds in common with inferior animals. It is this power which has raised the astronomer from being a mere gazer at the stars, to the high intellectual eminence of a Newton or Laplace; and astronomy itself from a mere observation of insulated facts into that noble science which displays to our admiration the system of the universe. And shall this high power of the mind, which has effected such wonders, when directed to the laws which control the material world, be forever prohibited, under a senseless cry of metaphysics, from being applied to the high purpose of political

science and legislation. He held them to be subject to laws as fixed as matter itself, and to be as fit a subject for the application of the highest intellectual power. Denunciation may indeed fall upon the philosophical enquirer into these first principles, as it did upon Galileo and Bacon, when they first unfolded the great discoveries, which have immortalized their names; but the time will come when truth will prevail in spite of prejudice and denunciation; and when politics and legislation will be considered as much a science as astronomy and chemistry.

In connexion with this part of the subject, he understood the Senator from Virginia, (Mr. Rives,) to say that sovereignty was divided, and that a portion remained with the States, severally, and that the residue was vested in the Union. By Union, he supposed that the Senator meant the United States. If such be his meaning—if he intended to affirm, that the sovereignty was in the twenty-four States, in whatever light he might view them, their opinions would not disagree; but, according to his (Mr. C.'s) conception, the whole sovereignty was in the several States, while the exercise of sovereign powers was divided—a part being exercised under compact, through the General Government, and the residue through the separate State Governments. But if the Senator from Virginia (Mr. Rives) meant to assert, that the twenty-four States formed but one community, with a single sovereign power, as to the objects of the Union, it would be but the revival of the old question, of whether the Union was a union between States, as distinct communities, or a mere aggregate of the American people, as a mass of individuals, and in this light his opinions would lead directly to consolidation.

But to return to the bill. It is said the bill ought to pass, because the law must be enforced. The law must be enforced. The Imperial Edict must be executed. It is under such sophistry, couched in general terms, without looking to the limitations which must ever exist in the practical exercise of power, that the most cruel and despotic acts ever have been covered. It was such sophistry as this, that cast Daniel into the lion's den, and the three Innocents into the fiery furnace. Under the same sophistry the bloody edicts of Nero and Caligula were executed. The law must be enforced. Yes, the "tea tax must be executed." This was the very argument which impelled Lord North and his administration in that mad career which forever separated us from the British crown. Under a similar sophistry, "that religion must be protected," how many massacres have been perpetrated? and how many martyrs have been tied to the stake? What, acting on this vague abstraction, are you prepared to enforce a law, without considering whether it be just or unjust, constitutional or unconstitutional? Will you collect money when it is acknowledged that it is not wanted?—He who earns the money—who digs it from the earth with the sweat of his brow, has a just title to it against the universe. No one has a right to touch it without

his consent, except his Government, and it only to the extent of its legitimate wants; to take more is robbery, and you propose by this bill to enforce robbery by murder. Yes, to this result you must come, by this miserable sophistry, this vague abstraction, of enforcing the law without regard to the fact whether the law be just or unjust, constitutional or unconstitutional.

In the same spirit we are told, that the Union must be preserved without regard to the means. And how is it proposed to preserve the Union? By force!! Does any man, in his senses, believe that this beautiful structure—this harmonious aggregate of States, produced by the joint consent of all, can be preserved by force? Its very introduction will be certain destruction of this Federal Union. No, no. You cannot keep the States united in their constitutional and federal bonds by force. Force may, indeed, hold the parts together; but such union would be the bond between master and slave; a union of exaction on one side and of unqualified *obedience* on the other. That *obedience* which we are told by the Senator from Pennsylvania (Mr. WILKINS) is the Union! Yes, exaction on the side of the master; for this bill is intended to collect what can be no longer called taxes—the voluntary contribution of a free people; but tribute, tribute to be collected under the mouths of the cannon! Your custom house is already transferred to a garrison, and that garrison, with its batteries turned, not against the enemy of your country, but on subjects, (I will not say citizens,) on whom you propose to levy contributions. Has reason fled from our borders? Have we ceased to reflect? It is madness to suppose that the Union can be preserved by force. I tell you, plainly, that the bill, should it pass, cannot be enforced. It will prove only a blot upon your statute book, a reproach to the year, and a disgrace to the American Senate. I repeat, that it will not be executed: it will rouse the dormant spirit of the people and open their eyes to the approach of despotism. The country has sunk into avarice and political corruption, from which nothing could arouse it, but some measure, on the part of the Government, of folly and madness, such as that now under consideration.

Disguise it as you may, the controversy is one between power and liberty, and he would tell the gentlemen who are opposed to him, that as strong as might be the love of power on their side, the love of liberty is still stronger on ours. History furnishes many instances of similar struggles, where the love of liberty has prevailed against power, under every disadvantage, and among them few more striking than that of our own revolution; where as strong as was the parent country, and as feeble as were the colonies, yet, under the impulse of liberty and the blessing of God, they gloriously triumphed in the contest. There were, indeed, many and striking analogies between that and the present controversy; they both originated substantially in the same cause, with this difference, that in the present case, the power of taxation is converted into that of regulating industry—in that the power of

regulating industry, by the regulation of commerce, was attempted to be converted into the power of taxation. Were he to trace the analogy further, we would find that the perversion of the taxing power, in one case, has given precisely the same control to the northern section over the industry of the southern section of the Union, which the power to regulate commerce gave to Great Britain over the industry of the colonies; and that the very articles in which the colonies were permitted to have a free trade, and those in which the mother country had a monopoly, are almost identically the same as those under which the southern States are permitted to have a free trade by the act of 1832, and which the northern States have, by the same act, secured a monopoly; the only difference is in the means: in the former, the colonies were permitted to have a free trade, with all countries south of Cape Finisterre, a cape in the northern part of Spain; while north of that the trade of the colonies was prohibited, except through the mother country, by means of her commercial regulations. If we compare the products of the country north and south of Cape Finisterre, we will find them almost identical with the list of the protected and unprotected articles contained in the act of last year. Nor does the analogy terminate here. The very arguments resorted to at the commencement of the American revolution, and the measures adopted, and the motives assigned to bring on that contest, (to enforce the law,) are almost identically the same.

But, (said Mr. CALHOUN.) to return from this digression to the consideration of the bill. Whatever opinion may exist upon other points, there is one in which he would suppose there could be none: that this bill rests on principles which, if carried out, will ride over State sovereignties, and that it will be idle for any of its advocates hereafter to talk of State Rights. The Senator from Virginia (Mr. RIVES) says that he is the advocate of State rights; but he must permit me to tell him that, although he may differ in premises from the other gentlemen with whom he acts on this occasion, yet in supporting this bill he obliterates every vestige of distinction between him and them; saving only, that professing the principles of '98, his example will be more pernicious than that of the most open and bitter opponents of the rights of the States. He would also add, what he was compelled to say, that he must consider him (Mr. RIVES,) as less consistent than our old opponents, whose conclusions were fairly drawn from their premises, whilst his premises ought to have led him to opposite conclusions. The gentleman has told us that the new fangled doctrines, as he chose to call them, had brought State rights into disrepute. He must tell him, in reply, that what he called new fangled, are but the doctrines of '98; and that it is he, (Mr. RIVES,) and others with him, who, professing these doctrines, had degraded them by explaining away their meaning and efficacy. He (Mr. R.) had disclaimed, in behalf of Virginia, the authorship of nullification. Mr. C. would not dispute that point. If Virginia chose to throw away one of her brightest

ornaments, she must not hereafter complain that it had become the property of another. But while as a Representative of Carolina, he had no right to complain of the disavowal of the Senator from Virginia, he must believe that he (Mr. R.) had done his native State great injustice, by declaring on this floor, that when she gravely resolved, in '98, that "in cases of deliberate and dangerous infractions of the constitution, the States, as parties to the compact, have the right, and are in duty bound, to interpose to arrest the progress of the evil, and to maintain, within their respective limits, the authorities, rights, and liberties appertaining to them," meant no more than to ordain the right to protest and remonstrate. To suppose that, in putting forth so solemn a declaration, which she afterwards sustained by so able and elaborate an argument, she meant no more than to assert what no one had ever denied, would be to suppose that the State had been guilty of the most egregious trifling, that ever was exhibited on so solemn an occasion.

Mr. C. said that, in reviewing the ground over which he had passed, it would be apparent that the question in controversy involved that most deeply important of all political questions, whether ours was a federal or consolidated Government. A question, on the decision of which depends, as he solemnly believed, the liberty of the people, their happiness, and the place which we are destined to hold in the moral and intellectual scale of nations.—Never was there a controversy in which more important consequences were involved; not excepting that between Persia and Greece, decided by the battles of Marathon, Platea, and Salamis; which gave ascendency to the genius of Europe over that of Asia; and which, in its consequences, has continued to effect the destiny of so large a portion of the world, even to this day. There are, said Mr. C., often close analogies between events apparently very remote, which are strikingly illustrated in this case. In the great contest between Greece and Persia, between European and Asiatic polity and civilization, the very question between the federal and consolidated form of Government was involved. The Asiatic Governments, from the remotest time, with some exceptions on the eastern shore of the Mediterranean, have been based on the principle of consolidation, which considers the whole community as but a unit, and consolidates its powers in a central point. The opposite principle has prevailed in Europe—Greece, throughout all her States, was based on a federal system. All were united in one common, but loose bond, and the Governments of the several States partook, for the most part, of a complex organization, which distributed political power among different members of the community. The same principles prevailed in ancient Italy; and, if we turn to the Teutonic race, our great ancestors, the race which occupies the first place in power, civilization, and science, and which possesses the largest and the fairest part of Europe, we will find that their Governments were based on the federal organization, as has been clearly illustrated by a recent and able writer on the British

constitution, (Mr. Palgrave) from whose writings he introduced the following extract:

"In this manner the first establishment of the Teutonic States was effected. They were assemblages of septs, clans, and tribes; they were confederated hosts and armies, led on by princes, magistrates, and chieftains; each of whom was originally independent, and each of whom lost a portion of his pristine independence, in proportion as he and his compeers became united under the supremacy of a sovereign, who was superinduced upon the State, first, as a military commander, and afterwards as a king. Yet, notwithstanding this political connexion, each member of the State continued to retain a considerable portion of the rights of sovereignty. Every ancient Teutonic monarchy must be considered as a federation; it is not an unit, of which the smaller bodies politic therein contained are the fractions, but they are the integers, and the State is the multiple which results from them. Dukedoms and counties, burghs and baronies, towns and townships, and shires, form the kingdom; all, in a certain degree, strangers to each other, and separate in jurisdiction, though all obedient to the supreme executive authority. This general description, though not always strictly applicable in terms, is always so substantially and in effect; and hence it becomes necessary to discard the language which has been very generally employed in treating on the English constitution. It has been supposed that the kingdom was reduced into a regular and gradual subordination of Government, and that the various legal districts of which it is composed, arose from the divisions and subdivisions of the country. But this hypothesis, which tends greatly to perplex our history, cannot be supported by fact; and instead of viewing the constitution as a whole, and then proceeding to its parts, we must examine it synthetically, and assume that the supreme authorities of the State were created by the concentration of the powers originally belonging to the members and corporations of which it is composed." [Here Mr. C gave way for a motion to adjourn.]

On the next day, Mr. Calhoun proceeded by remarking that he had omitted, at their proper place, in the course of his observations yesterday, two or three points to which he would now advert, before he resumed the discussion where he had left off. He had stated that the ordinance and acts of South Carolina were directed, not against the revenue but against the system of protection. But it might be asked, if such was her object, how happens it that she has declared the whole system void; revenues as well as protection, without discrimination? It is this question which he proposed to answer. Her justification would be found in the necessity of the case; and, if there be any blame, it could not attach to her. The two were so blended, throughout the whole, as to make the entire revenue system subordinate to the protection so as to constitute a complete system of protection, in which it was impossible to discriminate the two elements of which it is composed. South Car-

olina at least could not make the discrimination, and she was reduced to the alternative of acquiescing in a system which she believed to be unconstitutional, and which she felt to be oppressive and ruinous, or, to consider the whole as one, equally contaminated through all its parts, by the unconstitutionality of the protective portion; and, as such, to be resisted by the act of the State.—He maintained that the State had a right to regard it in the latter character, and that if a loss of revenue followed, the fault was not hers, but of this Government, which had improperly blended together, in a manner not to be separated by the State, two systems wholly dissimilar. If the sincerity of the State be doubted; if it be supposed that her action is against revenue as well as protection, let the two be separated; let so much of the duties as are intended for revenue, be put in one bill, and the residue intended for protection be put in another, and he pledged himself that the ordinance and the acts of the State would cease as to the former, and be directed exclusively against the latter.

He had also stated, in the course of his remarks yesterday, and trusted he had conclusively shown that the act of 1816, with the exception of a single item to which he had alluded, was, in reality a revenue measure, and that Carolina, and the other States, in supporting it, had not incurred the slightest responsibility in relation to the system of protection, which had since grown up, and which now so deeply distracts the country. Sir, said Mr. C., I am willing, as one of the representatives of Carolina, and, I believe, I speak the sentiment of the State, to take that act as the basis of a permanent adjustment of the tariff, simply reducing the duties, in an average proportion, on all the items, to the revenue point. I make that offer now to the advocates of the protective system; but I must, in candor inform them, that such an adjustment would distribute the revenue between the protected and unprotected articles more favorably to the State, and to the South, and less so to the manufacturing interest, than an average uniform advalorem, and, accordingly, more so than that now proposed by Carolina, through her Convention. After such an offer, no man who valued his candor, will dare accuse the State, or those who have represented her here, with inconsistency in reference to the point under consideration.

He omitted also, on yesterday, to notice a remark of the Senator from Virginia, (Mr. Rives,) that the only difficulty in adjusting the tariff grew out of the ordinance and the acts of South Carolina. He must attribute an assertion, so inconsistent with the facts, to an ignorance of the occurrences of the last few years, in reference to this subject, occasioned by the absence of the gentleman from the United States, to which he himself has alluded in his remarks. If the Senator will take pains to inform himself, he will find that this protective system advanced with a continued and rapid step, in spite of petitions, remonstrances, and protests, of not only Carolina, but also of Virginia, and of all the Southern

States, until 1828; when Carolina, for the first time, changed the character of her resistance, by holding up her reserved rights as the shield of her defence against further encroachment. This attitude alone, unaided by a single State, arrested the further progress of the system, so that the question from that period to this, on the part of the manufacturers, has been, not how to acquire more, but to retain that which they have acquired. He would inform the gentleman that if this attitude had not been taken on the part of the State, the question would not now be, how duties ought to be repealed, but a question as to the protected articles, between prohibition on one side and the duties established by the act of 1828, on the other. But a single remark will be sufficient in reply to what he must consider the invidious remark of the Senator from Virginia (Mr. RIVES.) The act of 1832, which has not yet gone into operation and which was passed but a few months since, was declared by the supporters of the system to be a *permanent* adjustment, and the bill proposed by the Treasury Department, not essentially different from the act itself, was in like manner declared to be intended, by the administration, as a permanent arrangement. What has occurred since, except this ordinance, and these abused acts of the calumniated State, to produce this mighty revolution in reference to this odious system? Unless the Senator from Virginia can assign some other cause, he is bound, upon every principle of fairness, to retract this unjust aspersion upon the acts of South Carolina.

After noticing (said Mr. C.) another omission, he would proceed with his remarks. The Senator from Delaware, (Mr. CLAYTON,) as well as others, had relied with great emphasis on the fact that we are citizens of the United States. I (said Mr. C.) do not object to the expression, nor shall I detract from the proud and elevated feelings with which it is associated; but he trusted that he might be permitted to raise the inquiry, in what manner are we citizens of the United States? without weakening the patriotic feeling with which he trusted it would ever be uttered. If by citizen of the United States, he meant a citizen at large, one whose citizenship extended to the entire geographical limits of the country, without having a local citizenship in some State or Territory, a sort of citizen of the world, all he had to say was, that such a citizen would be a perfect nondescript; that not a single individual of this description could be found in the entire mass of our population.—Notwithstanding all the pomp and display of eloquence on the occasion, every citizen is a citizen of some State or Territory, and as such, under an express provision of the Constitution, is entitled to all privileges and immunities of citizens in the several States; and it is in this, and in no other sense, that we are citizens of the United States. The Senator from Pennsylvania (Mr. DALLAS) indeed, relies upon that provision in the Constitution which gives Congress the power to establish a uniform rule of naturalization, and the operation of the rule actually established under this authority, to

prove that naturalized citizens are citizens at large, without being citizens of any of the States. He did not deem it necessary to examine the law of Congress upon this subject, or to reply to the argument of the Senator, though he could not doubt that he (Mr D.) had taken an entirely erroneous view of the subject. It was sufficient that the power of Congress extended simply to the establishment of an uniform rule by which foreigners might be naturalized in the several States or Territories, without infringing, in any other respect, in reference to naturalization, the rights of the States, as they existed before the adoption of the Constitution.

Having supplied the omissions of yesterday, Mr. C. now resumed the subject at the point where his remarks then terminated. The Senate would remember, that he stated at their close, that the great question at issue was, whether ours is a federal or a consolidated system of Government; a system, in which the parts, to use the emphatic language of M. Palgrave, are the integers, and the whole the multiple—or in which the whole is a unit and the parts the fractions; that he had stated, that on the decision of this question, he believed, depends not only the liberty and prosperity of this country, but the place which we are destined to hold in the intellectual and moral scale of nations. He had stated, also, in his remarks on this point, that there was a striking analogy between this and the great struggle between Persia and Greece, which had been decided by the battles of Marathon, Platea, and Salamis, and which had immortalized the names of Miltiades and Themistocles. He had illustrated this analogy by showing that centralism, or consolidation, with the exception of a few nations along the eastern border of the Mediterranean, had been the pervading principle in the Asiatic Governments, while the federal system, or, what is the same in principle, that system which organizes a community in reference to its parts, had prevailed in Europe.

Among the few exceptions in the Asiatic nations, the Government of the twelve tribes of Israel, in its early period, was the most striking. Their Government, at first, was a mere confederation, without any central power, till a military chieftain, with the title of King, was placed at its head, without, however, merging the original organization of the twelve distinct tribes. This was the commencement of that central action among that peculiar people, which, in three generations, terminated in a permanent division of their tribes. It is impossible even for a careless reader to peruse the history of that event without being forcibly struck with the analogy in the causes which led to their separation, and those which now threaten us with a similar calamity. With the establishment of the central power in the King, commenced a system of taxation, which, under King Solomon, was greatly increased to defray the expense of rearing the temple, of enlarging and embellishing Jerusalem, the seat of the central Government, and the other profuse expenditures of his magnificent reign. Increased taxation was followed by its natural consequences—discontent and com-

plaint; which before his death began to excite resistance. On the succession of his son, Rehoboam, the ten tribes, headed by Jeroboam, demanded a reduction of the taxes; the temple being finished, and the embellishments of Jerusalem completed, and the money which had been raised for that purpose being no longer required; or, in other words, the debt being paid, they demanded a reduction of the duties—a repeal of the tariff. The demand was taken under consideration, and after consulting the old men, the counsellors of '98, who advised a reduction, he then took the opinion of the younger politicians, who had since grown up, and knew not the doctrines of their fathers; he hearkened unto their counsel, and refused to make the reduction, and the secession of the ten tribes, under Jeroboam, followed. The tribes of Judah and Benjamin, which had received the disbursements, alone remained to the house of David.

But, to return to the point immediately under consideration. He knew that it was not only the opinion of a large majority of our country, but it might be said to be the opinion of the age, that the very beau ideal of a perfect government was the government of a majority, acting through a representative body, without check or limitation in its power; yet, if we may test this theory by experience and reason, we will find, that so far from being perfect, the necessary tendency of all Governments based upon the will of an absolute majority, without constitutional check or limitation of power, is to faction, corruption, anarchy, and despotism; and this, whether the will of the majority be expressed directly through an assembly of the people themselves, or by their representatives. I know, (said Mr. C.) that in venturing this assertion I utter that which is unpopular, both within and without these walls; but, where truth and liberty are concerned, such considerations should not be regarded. He would place the decision of this point on the fact, that no government of the kind, among the many attempts which had been made, had ever endured for a single generation; but, on the contrary, had invariably experienced the fate which he had assigned to them. Let a single instance be pointed out, and he would surrender his opinion. But, if we had not the aid of experience to direct our judgment, reason itself would be a certain guide. The view which considers the community as a unit, and all its parts as having a similar interest, is radically erroneous. However small the community may be, and however homogenous its interests, the moment that government is put into operation, as soon as it begins to collect taxes and to make appropriations, the different portions of the community must, of necessity, bear different and opposing relations in reference to the action of the government. There must inevitably spring up two interests; a direction and a stockholder interest; an interest profiting by the action of the government, and interested in increasing its powers and action; and another, at whose expense the political machine is kept in motion. He knew

how difficult it was to communicate distinct ideas on such a subject through the medium of general propositions, without particular illustration; and, in order that he might be distinctly understood, though at the hazard of being tedious, he would illustrate the important principle which he had ventured to advance, by examples.

Let us then suppose a small community of five persons, separated from the rest of the world; and, to make the example strong, let us suppose them all to be engaged in the same pursuit, and to be of equal wealth. Let us further suppose, that they determine to govern the community by the will of a majority; and, to make the case as strong as possible, let us suppose that the majority, in order to meet the expenses of the government, lay an equal tax, say of $100 on each individual of this little community. Their treasury would contain five hundred dollars. Three are a majority; and they, by supposition, have contributed three hundred as their portion, and the other two, (the minority) two hundred. The three have the right to make the appropriations as they may think proper. The question is, how would the principle of the absolute and unchecked majority operate, under these circumstances, in this little community? If the three be governed by a sense of justice—if they should appropriate the money to the objects for which it was raised, the common and equal benefit of five, then the object of the association would be fairly and honestly effected, and each would have a common interest in the government. But, should the majority pursue an opposite course; should they appropriate the money in a manner to benefit their own particular interest, without regard to the interest of the two, (and that they will so act, unless there be some efficient check he who best knows human nature will least doubt,) who does not see that the three and the two would have directly opposite interests, in reference to the action of the government? The three who contribute to the common treasury but three hundred dollars, could, in fact, by appropriating the five hundred to their own use, convert the action of the government into the means of making money; and of consequence, would have a direct interest in increasing the taxes. They put in three hundred and take out five; that is, they take back to themselves all that they had put in; and, in addition, that which was put in by their associates; or, in other words, taking taxation and appropriation together, they have gained, and their associates have lost, two hundred dollars by the fiscal action of the government. And opposite interests, in reference to the action of the government, is thus created between them; the one having an interest in favor and the other against the taxes; the one to increase and the other to decrease the taxes; the one to retain the taxes when the money is no longer wanted, and the other to repeal them when the objects for which they were levied have been executed.

Let us now suppose this community of five be raised to twenty-four individuals, to be governed in like manner by the will of a

majority; it is obvious that the same principle would divide them into two interests—into a majority and a minority, thirteen against eleven, or in some other proportion; and that all the consequences, which he had shown to be applicable to the small community of five, would be equally applicable to the greater—the cause not depending upon the number, but resulting necessarily from the action of the government itself. Let us now suppose that, instead of governing themselves directly in an assembly of the whole, without the intervention of agents, they should adopt the representative principle, and that, instead of being governed by a majority of themselves, they should be governed by a majority of their representatives. It is obvious that the operation of the system would not be effected by the change, the representatives being responsible to those who choose them, will conform to the will of their constituents, and would act as they would do, were they present, and acting for themselves; and the same conflict of interest, which we have shown would exist in one case, would equally exist in the other. In either case, the inevitable result would be a system of hostile legislation on the part of the majority, or the stronger interest, against the minority, or the weaker interest; the object of which, on the part of the former, would be to exact as much as possible from the latter, which would necessarily be resisted by all the means in their power. Warfare, by legislation, would thus be commenced between the parties, with the same object, and not less hostile than that which is carried on between distinct and rival nations—the only distinction would be in the instruments and the mode. Enactments, in the one case, would supply what could only be effected by arms in the other; and the inevitable operation would be to engender the most hostile feelings between the parties, which would merge every feeling of patriotism—that feeling which embraces the whole, and substitute in its place the most violent party attachment; and, instead of having one common center of attachment, around which the affections of the community might rally, there would, in fact, be two—the interests of the majority, to which those who constitute that majority would be more attached than they would be to the whole, and that of the minority, to which they in like manner would also be more attached than to the interests of the whole. Faction would thus take the place of patriotism, and, with the loss of patriotism, corruption must necessarily follow, and, in its train, anarchy, and, finally, despotism, or the establishment of absolute power in a single individual, as a means of arresting the conflict of hostile interests; on the principle that it is better to submit to the will of a single individual, who, by being made lord and master of the whole community, would have an equal interest in the protection of all the parts.

Let us next suppose that, in order to avert the calamitous train of consequences, this little community should adopt a written constitution, with limitations restricting the will of the majority, in order

to protect the minority against the oppression which he had shown would necessarily result without such restrictions. It is obvious that the case would not be in the slightest degree varied, if the majority be left in possession of the right of judging exclusively of the extent of its powers, without any right on the part of the minority, to enforce the restrictions imposed by the Constitution on the will of the majority. The point is almost too clear for illustration.—Nothing can be more certain than that when a Constitution grants power, and imposes limitations on the exercise of that power, whatever interests may obtain possession of the Government, will be in favor of extending the power at the expense of the limitation; and that, unless those in whose behalf the limitations were imposed, have, in some form or mode, the right of enforcing them, the power will ultimately supersede the limitation, and the Government must operate precisely in the same manner as if the will of the majority governed without Constitution or limitation of power.

He had thus presented all possible modes, in which a Government bound upon a will of an absolute majority, would be modified, and had demonstrated that, in all its forms, whether in a majority of the people, as in a mere democracy, or in a majority of their representatives, without a Constitution, or with a Constitution, to be interpreted as the will of the majority, the result would be the same; two hostile interests would inevitably be created by the action of the Government, to be followed by hostile legislation, and that by faction, corruption, anarchy, and despotism.

The great and solemn question here presented itself—Is there any remedy for these evils, on the decision of which depends the question, whether the people can govern themselves, which has been so often asked with so much scepticism and doubt? There is a remedy, and but one, the effect of which, whatever may be the form, is to organize society in reference to this conflict of interests, which springs out of the action of Government; and which can only be done by giving to each part the right of self-protection; which, in a word, instead of considering the community of twenty-four as a single community, having a common interest, and to be governed by the single will of an entire majority, shall, upon all questions tending to bring the parts into conflict, the thirteen against the eleven, take the will, not of the twenty-four as a unit, but that of the thirteen and that of the eleven separately, the majority of each governing the parts, and where they concur, governing the whole, and where they disagree, arresting the action of the Government. This, he would call the concurring, as distinct from the absolute majority. It would not be, as was generally supposed, a minority governing a majority. In either way, the number would be the same, whether taken as the absolute, or as the concurring majority. Thus, the majority of the thirteen is seven, and of the eleven six, and the two together make thirteen, which is the majority of twenty-four. But though the number is the same, the mode of count-

ing is essentially different; the one representing the strongest interest, and the other the weaker interests of the community. The first mistake was, in supposing that the government of the absolute majority is the government of this people—that beau ideal of a perfect government, which had been so enthusiastically entertained in every age by the generous and patriotic, where civilization and liberty had made the smallest progress. There could be no greater error; the government of the people is the government of the whole community—of the twenty-four—the self-government of all the parts—too perfect to be reduced to practice in the present, or any past stage of human society. The government of the absolute majority, instead of the government of the people, is but the government of the strongest interests, and, when not efficiently checked, is the most tyrannical and oppressive that can be devised. Between this ideal perfection on one side, and despotism on the other, none other can be devised but that which considers society, in reference to its parts, as differently affected by the action of the government, and which takes the sense of each part separately, and thereby the sense of the whole in the manner already illustrated.

These principles, as he had already stated, are not affected by the number of which the community may be composed, and are just as applicable to one of thirteen millions, the number which composes ours, as of the small community of twenty-four, which I have supposed for the purpose of illustration; and are not less applicable to the twenty-four States united in one community, than to the case of the twenty-four individuals. There is, indeed, a distinction between a large and small community, not affecting the principle, but the violence of the action. In the former, the similarity of the interests of all the parts, will limit the oppression from the hostile action of the parts, in a great degree, to the fiscal action of the government merely; but in the large community, spreading over a country of great extent, and having a great diversity of interests, with different kinds of labor, capital, and production, the conflict and oppression will extend, not only to a monopoly of the appropriations, on the part of the stronger interests, but will end in unequal taxes, and a general conflict between the entire interests of conflicting sections; which if not arrested by the most powerful checks, will terminate in the most oppressive tyranny that can be conceived, or in the destruction of the community itself.

If we turn our attention from these supposed cases, and direct it to our Government, and its actual operation, we will find a practical confirmation of the truth of what has been stated, not only of the oppressive operation of the system of an absolute majority, but also a striking and beautiful illustration, in the formation of our system, of the principle of the concurring majority, as distinct from the absolute, which he had asserted to be the only means of efficiently checking the abuse of power, and of course, the only

solid foundation of constitutional liberty. That our Government, for many years, has been gradually verging to consolidation, that the Constitution has gradually become a dead letter, and that all restrictions upon the power of Government have been virtually removed, so as practically to convert the General Government into a Government of an absolute majority, without check or limitation, cannot be denied by any one who has impartially observed its operation.

It is not necessary to trace the commencement and gradual progress of the causes which have produced this change in our system; it is sufficient to state that the change has taken place within the last few years, What has been the result? Precisely that which might have been anticipated; the growth of faction, corruption, anarchy, and, if not despotism itself, its near approach, as witnessed in the provisions of this bill. And from what have these consequences sprung? We have been involved in no war! We have been at peace with all the world. We have been visited with no national calamity. Our people have been advancing in general intelligence, and I will add, as great and alarming as has been the advance of political corruption, the morals and virtue of the community at large, have been advancing in improvement.—What, he would again repeat, is the cause? No other can be assigned but a departure from the fundamental principles of the Constitution, which has converted the Government into the will of an absolute and irresponsible majority, and which, by the laws which must inevitably govern, in all such majorities, have placed in conflict the great interests of the country, by a system of hostile legislation; by an oppressive and unequal imposition of taxes; by unequal and profuse appropriations, and by rendering the entire labor and capital of the weaker interests subordinate to the stronger.

This is the cause and these the fruits, which have converted the Government into a mere instrument of taking money from one portion of the community to be given to another, and which has rallied around it a great, a powerful, and mercenary corps of office holders, office seekers, and expectants, destitute of principle and patriotism, and who have no standard of morals or politics but the will of the Executive—the will of him who has the distribution of the loaves and the fishes.—He held it impossible for any one to look at the theoretical illustration of the principle of the absolute majority in the cases which he had supposed, and not be struck with the practical illustration in the actual operation of our Government. Under every circumstance, the majority will ever have its American system—(he meant nothing offensive to any Senator)—but the real meaning of the American system is, that system of plunder which the strongest interest has ever waged, and will ever wage, against the weaker, where the latter is not armed with some efficient and constitutional check to arrest its action. Nothing but such check

on the part of the weaker interest can arrest it; mere constitutional limitations are wholly insufficient. Whatever interest obtains possession of the Government will, from the nature of things, be in favor of the powers and against the limitations imposed by the constitution, and will resort to every device that can be imagined to remove those restraints. On the contrary, the opposite interest; that which he had designated as the stockholding interest; the tax payers; those on whom the system operates, will resist the abuse of powers, and contend for the limitations. And it is on that point then, that the contest between the delegated and the reserved powers will be waged; but, in this contest, as the interests in possession of the Government are organized and armed by all its powers and patronage, the opposite interest, if not in like manner organized and possessed of a power to protect themselves under the provisions of the Constitution, will be as inevitably crushed as would be a band of unorganized militia, when opposed by a veteran and trained corps of regulars. Let it never be forgotten, that power can only be opposed by power, organization by organization; and on this theory stands our beautiful federal system of government. No free system was ever farther removed from the principle that the absolute majority, without check or limitation, ought to govern. To understand what our government is, we must look to the constitution, which is the basis of the system. He did not intend to enter into any minute examination of the origin and the source of its powers; it was sufficient for his purpose to state, what he did fearlessly, that it derived its power from the people of the separate States, each ratifying by itself, each binding itself by its own separate majority, through its separate convention, and the concurrence of the majorities of the several States forming the constitution; thus taking the sense of the whole by that of the several parts, representing the various interests of the entire community. It was this concurring and perfect majority which formed the constitution, and not that majority which would consider the American people as a single community, and which, instead of representing fairly and fully the interests of the whole, would but represent, as has been stated, the interest of the stronger section. No candid man can dispute that he had given a correct description of the constitution-making power, that power which created and organized the Government; which delegated to it, as a common agent certain powers, in trust for the common good of all the States, and which had imposed strict limitation and checks against abuses and usurpations. In administering the delegated powers, the constitution provides very properly, in order to give promptitude and efficiency, that the government should be organized upon the principle of the absolute majority, or rather of two absolute majorities combined: a majority of the States considered as bodies politic, which prevails in this body; and a majority of the people of the States, estimated in federal numbers, in the other house of Congress. A combination

of the two prevails in the choice of the President, and, of course, in the appointment of judges, they being nominated by the President and confirmed by the Senate. It is thus that the concurring and the absolute majorities are combined in one complex system; the one in forming the constitution and the other in making and executing the laws; thus beautifully blending the moderation, justice, and equity of the former and more perfect majority, with the promptness and energy of the latter, but less perfect.

To maintain the ascendancy of the Constitution over the law-making majority, is the great and essential point on which the success of the system must depend; unless that ascendancy can be preserved, the necessary consequence must be, that the laws will supersede the Constitution, and, finally, the will of the Executive, by the influence of its patronage, will supersede the laws, indications of which, are already perceptible. This ascendancy can only be preserved through the action of the States, as organized bodies, having their own separate Governments, and possessed of the right under the structure of our system, of judging of the extent of their separate powers, and of interposing their authority to arrest the enactments of the General Government within their respective limits. He would not enter, at this time, into the discussion of this important point; as it had been ably and fully presented by the Senator from Kentucky, (Mr. Bibb) and others who had preceded him in this debate, on the same side; whose arguments not only remained unanswered, but were unanswerable. It was only by this power of interposition that the reserved rights of the States could be peacefully and efficiently protected against the encroachments of the General Government, that the limitations imposed upon its authority would be enforced, and its movements confined to the orbit allotted to it by the Constitution.

It had, indeed, been said in debate, that this could be effected by the organization of the General Government itself, particularly by the action of this body, which represented the States, and that the States themselves must look to the General Government for the preservation of many of the most important of their reserved rights. He did not (said Mr. C.) underrate the value to be attached to the organic arrangement of the General Government, and the wise distribution of its powers between the several departments, and in particular the structure and the important functions of this body; but to suppose that the Senate or any department of this Government was intended to be the guardian of the reserved rights, was a great and fundamental mistake. The Government, through all its departments, represents the delegated, and not the reserved powers; and it was a violation of the fundamental principle of free institutions to suppose, that any but the responsible representative of any interest, could be its guardian. The distribution of the powers of the General Government and its organization, were arranged to prevent the abuse of power, in ful-

filling the important trusts confided to it; and not, as preposterously supposed, to protect the reserved powers, which are confided wholly to the guardianship of the several States.

Against the view of our system which he had presented, and the right of the State to interpose, it was objected that it would lead to anarchy and dissolution. He considered the objection as without the slightest foundation, and that so far from tending to weakness or disunion, it was the source of the highest power and of the strongest cement. Nor was its tendency in this respect difficult of explanation. The Government of an absolute majority, unchecked by efficient constitutional restraint, though apparently strong, was in reality an exceedingly feeble Government. That tendency to conflict between the parts, which he had shown to be inevitable in such Governments, wasted the powers of the State in the hostile action of contending factions, which left very little more power than the excess of the strength of the majority over the minority. But a Government based upon the principle of the concurring majority, where each great interest possessed within itself the means of self-protection, which ultimately requires the mutual consent of all the parts, necessarily causes that unanimity in council, and ardent attachment of all the parts to the whole, which gives an irresistible energy to a Government so constituted. He might appeal to history for the truth of these remarks, of which the Roman furnished the most familiar and striking. It is a well known fact, that from the expulsion of the Tarquins to the time of the establishment of the Tribunarian power, the Government fell into a state of the greatest disorder and distraction, and he might add, corruption. How did this happen? The explanation will throw important light on the subject under consideration. The community was divided into two parts—the Patricians and the Plebeians; with the powers of the State principally in the hands of the former, without adequate check to protect the rights of the latter. The result was as might be expected. The Patricians converted the powers of the Government into the means of making money, to enrich themselves and their dependants. They, in a word, had their American system, growing out of the peculiar character of the Government and condition of the country. This requires explanation. At that period, according to the laws of nations, when one nation conquered another, the lands of the vanquished belonged to the victors; and according to the Roman law, the lands thus acquired were divided into parts, one allotted to the poorer class of people, and the other assigned to the use of the Treasury, of which the patricians had the distribution and administration. The patricians abused their power by withholding from the people that which ought to have been allotted to them, and by converting to their own use that which ought to have gone to the Treasury. In a word, they took to themselves the entire spoils of victory, and they had thus the

most powerful motive to keep the State perpetually involved in war, to the utter impoverishment and oppression of the people. After resisting the abuse of power by all peaceable means, and the oppression becoming intolerable, the people, at last, withdrew from the city—they, in a word, seceded; and, to induce them to reunite, the patricians conceded to the plebeians, as the means of protecting their separate interest, the very power which he contended is necessary to protect the rights of the States; but which is now represented as necessarily leading to disunion. They granted to the people the right of choosing three tribunes from among themselves, whose persons should be sacred, and who should have the right of interposing their veto, not only against the passage of laws, but even against their execution—a power which those who take a shallow insight in to human nature, would pronounce inconsistent with the strength and unity of the State, if not utterly impracticable. Yet, so far from that being the effect, from that day, the genius of Rome became ascendant; and victory followed her steps till she had established an almost universal dominion. How can a result so contrary to all anticipation, be explained? The explanation appeared to him to be simple. No measure or movement could be adopted without the concurring assent of both the patricians and plebeians, and each thus became dependant on the other, and of consequence, the desire and objects of neither could be effected without the concurrence of the other. To obtain this concurrence, each was compelled to consult the good will of the other, and to elevate to office, not simply those who might have the confidence of the order to which he belonged, but also that of the other. The result was, that men possessing those qualities which would naturally command confidence, moderation, wisdom, justice, and patriotism, were elevated to office; and these, by the weight of their authority, and the prudence of their counsel, together with that spirit of unanimity, necessarily resulting from the concurring assent of the two orders, furnishes the real explanation of the power of the Roman State, and of that extraordinary wisdom, moderation, and firmness, which in so remarkable a degree characterized her public men. He might illustrate the truth of the position which he had laid down, by a reference to the history of all free States, ancient and modern, distinguished for their power and patriotism, and conclusively show, not only that there was not one which had not some contrivance, under some form, by which the concurring assent of the different portions of the community was made necessary, in the action of Government, but also that the virtue, patriotism, and strength of the State, were in direct proportion to the perfection of the means of securing such assent. In estimating the operation of this principle in our system, which depends, as he had stated, on the right of interposition on the part of the State, we must not omit to take into consideration the amending power, by which new powers may be granted; or any derangement of the system be corrected, by the concurring assent

of three-fourths of the States, and thus, in the same degree, strengthening the power of repairing any derangement occasioned by the executive action of a State. In fact, the power of interposition, fairly understood, may be considered in the light of an appeal against the usurpations of the General Government, the joint agent of all the States, to the States themselves, to be decided under the amending power, affirmatively in favor of the Government, by the voice of three-fourths of the States, as the highest power known under the system.

Mr. C. said that he knew the difficulty, in our country, of establishing the truth of the principle for which he contended, though resting upon the clearest reason, and tested by the universal experience of free nations. He knew that the Governments of the several States would be cited as an argument against the conclusions to which he had arrived, and which for the most part, were constructed on the principle of the absolute majority; but in his opinion a satisfactory answer could be given; that the objects of expenditure which fell within the sphere of a State Government, were few and inconsiderable, so that be their action ever so irregular, it could occasion but little derangement. If, instead of being members of this great confederacy, they formed distinct communities, and were compelled to raise armies, and incur other expenses necessary to their defence, the laws which he had laid down as necessarily controlling the action of a State where the will of an absolute and unchecked majority prevailed, would speedily disclose themselves in faction, anarchy, and corruption. Even as the case is, the operation of the causes to which he had referred, were perceptible in some of the larger and more populous members of the Union, whose Governments had a powerful central action, and which already showed a strong tendency to that monied action which is the invariable forerunner of corruption and convulsions.

But to return to the General Government; we have now sufficient experience to ascertain that the tendency to conflict in its action, is between southern and other sections. The latter having a decided majority, must habitually be possessed of the powers of the Government, both in this and in the other House; and being governed by that instinctive love of power so natural to the human breast, they must become the advocates of the power of Government, and in the same degree opposed to the limitations; while the other and weaker section is as necessarily thrown on the side of the limitations. In one word; the one section is the natural guardian of the delegated powers, and the other of the reserved; and the struggle on the side of the former will be to enlarge the powers, while that on the opposite side will be to restrain them within their constitutional limits. The contest will, in fact, be a contest between power and liberty, and such he considered the present—a contest in which the weaker section, with its peculiar labor, productions, and situation, has at stake all that can be dear to free-

men. Should they be able to maintain in their full vigor their reserved rights, liberty and prosperity will be their portion; but if they yield and permit the stronger interest to consolidate within itself all the powers of the Government, then will its fate be more wretched than that of the aborigines which they have expelled, or of their slaves. In this great struggle between the delegated and reserved powers, so far from repining that his lot, and that of those whom he represented, is cast on the side of the latter, he rejoiced that such is the fact; for though we participate in but few of the advantages of the Government, we are compensated, and more than compensated, in not being so much exposed to its corruption. Nor did he repine that the duty, so difficult to be discharged as the defence of the reserved powers, against apparently such fearful odds, had been assigned to them. To discharge successfully this high duty, requires the highest qualities, moral and intellectual; and should we perform it with a zeal and ability in proportion to its magnitude, instead of being mere planters, our section will become distinguished for its patriots and statesmen. But on the other hand, if we prove unworthy of this high destiny—if we yield to the steady encroachment of power, the severest and most debasing calamity and corruption will overspread the land. Every southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be forever excluded from the honors and emoluments of this Government, which will be reserved for those only, who have qualified themselves by political prostitution, for admission into the *Magdalen* Asylum.

IN SENATE, SATURDAY, FEBRUARY 16, 1833.

MR. WEBSTER'S SPEECH,

In Reply to Mr. Calhoun, on the Revenue Collection Bill.

On the 21st of January, 1833, Mr. WILKINS, Chairman of the Judiciary Committee, introduced the bill further to provide for the collection of duties.

On the 22d day of the same month, Mr. CALHOUN submitted the following resolutions:

"***Resolved***, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded, as a separate sovereign community, each binding itself by its own particular ratification; and that the Union, of which the said compact is the bond, is a union ***between the States*** ratifying the same.

"***Resolved***, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a General Government to carry into effect the objects for which they were formed, delegated to that Government, for that purpose, certain definite powers, to be exercised jointly, reserving, at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate Government; and that, whenever the General Government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same Government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

"***Resolved***, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the General Government; that they have parted with the right of punishing treason through their respective State Governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and of consequence of those delegated; are not only without foundation in truth, but are contrary to the most plain historical facts, and the clearest deductions of reason; and that all exercise of power on the part of the General Government, or any of its departments, claiming authority from such erroneous assumptions, must of necessity be unconstitutional—must tend, directly and inevitably, to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated Government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

On Saturday, the 16th of February, Mr. CALHOUN spoke in opposition to the bill.

Mr. WEBSTER followed him.

The gentleman from South Carolina, said Mr. Webster, has admonished us to be mindful of the opinions of those who shall come after us. We must take our chance, sir, as to the light in which posterity will regard us. I do not decline its judgment, nor with

hold myself from its scrutiny. Feeling that I am performing my public duty with singleness of heart, and to the best of my ability I fearlessly trust myself to the country, now and hereafter, and leave both my motives and my character to its decision.

The gentleman has terminated his speech in a tone of threat and defiance towards this bill, even should it become a law of the land, altogether unusual in the halls of Congress. But I shall not suffer myself to be excited into warmth, by his denunciation of the measure which I support. Among the feelings which at this moment fill my breast, not the least is that of regret at the position in which the gentleman has placed himself. Sir, he does himself no justice. The cause which he espouses finds no basis in the constitution, no succor from public sympathy, no cheering from a patriotic community. He has no foothold on which to stand, while he might display the powers of his acknowledged talents. Every thing beneath his feet is hollow and treacherous. He is like a strong man struggling in a morass; every effort to extricate himself, only sinks him deeper and deeper. And I fear the resemblance may be carried still further; I fear that no friend can safely come to his relief, that no one can approach near enough to hold out a helping hand, without danger of going down himself, also, into the bottomless depths of this Serbonian bog.

The honorable gentleman has declared that on the decision of the question, now in debate, may depend the cause of liberty itself. I am of the same opinion; but then, sir, the liberty which I think is staked on the contest, is not political liberty, in any general and undefined character, but our own, well understood, and long enjoyed *American* liberty.

Sir, I love liberty no less ardently than the gentleman, in whatever form she may have appeared in the progress of human history. As exhibited in the master States of antiquity, as breaking out again from amidst the darkness of the middle ages, and beaming on the formation of new communities, in modern Europe, she has, always and every where, charms for me. Yet, sir, it is our own liberty, guarded by constitutions and secured by union; it is that liberty which is our paternal inheritance, it is our established, dear bought, peculiar American liberty to which I am chiefly devoted, and the cause of which I now mean, to the utmost of my power, to maintain and defend.

Mr. President, if I considered the constitutional question now before us as doubtful as it is important, and if I supposed that its decision, either in the Senate or by the country, was likely to be in any degree influenced by the manner in which I might now discuss it, this would be to me a moment of deep solicitude. Such a moment has once existed. There has been a time, when, rising in this place, on the same question, I felt, I must confess, that something for good or evil to the constitution of the country might depend on an effort of mine. But circumstances are changed. Since that day, sir, the public opinion has become awakened to this

great question; it has grasped it, it has reasoned upon it, as becomes an intelligent and patriotic community, and has settled it, or now seems in the progress of settling it, by an authority which none can disobey—the authority of the people themselves.

I shall not, Mr. President, follow the gentleman, step by step, through the course of his speech. Much of what he has said, he has deemed necessary to the just explanation and defence of his own political character and conduct. On this, I shall offer no comment. Much, too, has consisted of philosophical remark upon the general nature of political liberty, and the history of free institutions; and of other topics, so general in their nature, as to possess, in my opinion, only a remote bearing on the immediate subject of this debate.

But the gentleman's speech, made some days ago, upon introducing his resolutions, those resolutions themselves, and parts of the speech now just concluded, may probably be justly regarded as containing the whole South Carolina doctrine. That doctrine it is my purpose now to examine, and to compare it with the constitution of the United States. I shall not consent, sir, to make any new constitution, or to establish another form of Government. I will not undertake to say what a constitution for these United States ought to be. That question the people have decided for themselves, and I shall take the instrument as they have established it, and shall endeavor to maintain it, in its plain sense and meaning, against opinions and notions which, in my judgment, threaten its subversion.

The resolutions introduced by the gentleman were apparently drawn up with care, and brought forward upon deliberation. I shall not be in danger, therefore, of misunderstanding him, or those who agree with him, if I proceed at once to these resolutions, and consider them as an authentic statement of those opinions, upon the great constitutional question, by which the recent proceedings in South Carolina are attempted to be justified.

These resolutions are three in number.

The third seems intended to enumerate, and to deny, the several opinions expressed in the President's proclamation, respecting the nature and powers of this Government. Of this third resolution, I propose, at present to take no particular notice.

The two first resolutions of the honorable member affirm these propositions, viz.

1. That the political system under which we live, and under which Congress is now assembled, is a *compact*, to which the people of the several States, as separate and sovereign communities, are *the parties*.

2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress; and, in case of such violation, to choose, each for itself, its own mode and measure of redress.

It is true, sir, that the honorable member calls this a "constitu

tional" compact; but still he affirms it to be a compact between sovereign States. What precise meaning, then, does he attach to the term constitutional? When applied to compacts between sovereign States, the term constitutional affixes to that word compact no definite idea. Were we to hear of a constitutional league or treaty between England and France, or a constitutional convention between Austria and Russia, we should not understand what could be intended by such a league, such a treaty, or such a convention. In these connexions, the word is void of all meaning; and yet, sir, it is easy, quite easy, to see why the honorable gentleman has used it in these resolutions. He cannot open the book, and look upon our written frame of Government, without seeing that it is called a constitution. This may well be appalling to him. It threatens his whole doctrine of compact, and its darling derivatives, nullification and secession, with instant confutation. Because, if he admits our instrument of Government to be a constitution, then, for that very reason, it is not a compact between sovereigns; a constitution of Government, and a compact between sovereign Powers, being things essentially unlike in their very natures, and incapable of ever being the same. Yet the word constitution is on the very front of the instrument. He cannot overlook it. He seeks, therefore, to compromise the matter, and to sink all the substantial sense of the word, while he retains a resemblance of its sound. He introduces a new word of his own, viz. compact, as importing the principal idea, and designed to play the principal part, and degrades constitution into an insignificant, idle epithet, attached to compact. The whole then stands as a "constitutional compact!" And in this way he hopes to pass off a plausible gloss, as satisfying the words of the instrument; but he will find himself disappointed. Sir, I must say to the honorable gentleman, in our American political grammar, *constitution* is a noun substantive; it imports a distinct and clear idea, of itself; and it is not to lose its importance and dignity, it is not to be turned into a poor, ambiguous, senseless, unmeaning adjective, for the purpose of accommodating any new set of political notions.—Sir, we reject his new rules of syntax altogether. We will not give up our forms of political speech to the grammarians of the school of nullification. By the constitution, we mean not a "constitutional compact," but, simply and directly, the constitution, fundamental law; and if there be one word in the language, which the people of the United States understand, this is that word.—We know no more of a constitutional compact between sovereign Powers, than we know of a constitutional indenture of co-partnership, a constitutional deed of conveyance, or a constitutional bill of exchange. But we know what the constitution is; we know what the plainly written fundamental law is; we know what the bond of our union and the security of our liberties is; and we mean to maintain and to defend it in its plain sense and unsophisticated meaning.

The sense of the gentleman's proposition, therefore, is not at all affected, one way or the other, by the use of this word. That proposition still is, that our system of Government is but a compact between the people of separate and sovereign States.

Was it Mirabeau, Mr. President, or what other master of the human passions, who has told us that words are things? They are indeed things, and things of mighty influence, not only in addresses to the passions and high-wrought feelings of mankind, but in the discussion of legal and political questions also; because a just conclusion is often avoided, or a false one reached, by the adroit substitution of one phrase, or one word, for another. Of this we have, I think, another example in the resolutions before us.

The first resolution declares that the people of the several States "acceded" to the constitution, or to the constitutional compact, as it is called. This word "accede," not found either in the constitution itself, or in the ratification of it by any one of the States, has been chosen for use here, doubtless not without a well considered purpose.

The natural converse of accession is secession; and, therefore, when it is stated that the people of the States acceded to the Union, it may be more plausibly argued that they may secede from it. If, in adopting the constitution, nothing was done but acceding to a compact, nothing would seem necessary, in order to break it up, but to secede from the same compact. But the term is wholly out of place. Accession, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it; and secession implies departing from such league or confederacy. The people of the United States have used no such form of expression, in establishing the present Government. They do not say that they accede to a league, but they declare that they ordain and establish a Constitution. Such are the very words of the instrument itself; and in all the States, without an exception, the language used by their conventions, was that they "ratified the Constitution;" some of them employing the words "assented to," and "adopted:" but all of them "ratifying." There is more importance than may, at first sight, appear, in the introduction of this new word by the honorable mover of these resolutions. Its adoption and use are indispensable to maintain those premises, from which his main conclusion is to be afterwards drawn. But before showing that, allow me to remark, that this phraseology tends to keep out of sight the just view of our previous political history, as well as to suggest wrong ideas as to what was actually done when the present Constitution was agreed to. In 1789, and before this Constitution was adopted, the United States had already been in a Union more or less close, for fifteen years. At least as far back as the meeting of the first Congress, in 1774, they had been, in some measure, and to some national purposes, united together. Before the confederation of 1781, they had declared independence jointly, and had carried on

the war jointly, both by sea and land; and this, not as separate States, but as one people. When, therefore, they formed that confederation, and adopted its articles as articles of perpetual union, they did not come together for the first time; and therefore, they did not speak of the States as acceding to the confederation, although it was a league, and nothing but a league, and rested on nothing but plighted faith for its performance. Yet, even then, the States were not strangers to each other; there was a bond of union already subsisting between them; they were associated, United States; and the object of the confederation was to make a stronger and better bond of union. Their representatives deliberated together on these proposed articles of confederation, and being authorized by their respective States, finally "ratified and confirmed" them. Inasmuch as they were already in union, they did not speak of acceding to the new articles of confederation, but of ratifying and confirming them; and this language was not used inadvertently, because, in the same instrument, accession is used in its proper sense, when applied to Canada, which was altogether a stranger to the existing Union. "Canada," says the 11th article, "acceding to this confederation, and joining in the measures of the United States, shall be admitted into the Union."

Having thus used the terms ratify and confirm, even in regard to the old confederation, it would have been strange indeed, if the people of the United States, after its formation, and when they came to establish the present Constitution, had spoken of the States, or the people of the States, as acceding to this Constitution. Such language would have been ill suited to the occasion. It would have implied an existing separation or disunion among the States; such as never has existed since 1774. No such language, therefore, was used. The language actually employed is, adopt, ratify, ordain, establish.

Therefore, sir, since any State, before she can prove her right to dissolve the Union, must show her authority to undo what has been done; no State is at liberty to secede, on the ground that she and other States have done nothing but accede. She must show that she has a right to reverse what has been ordained, to unsettle and overthrow what has been established, to reject what the people have adopted, and to break up what they have ratified; because these are the terms which express the transactions which have actually taken place. In other words, she must show her right to make a revolution.

If, Mr. President, in drawing these resolutions, the honorable member had confined himself to the use of constitutional language, there would have been a wide and awful hiatus between his premises and his conclusion. Leaving out the two words compact and accession, which are not constitutional modes of expression, and stating the matter precisely as the truth is, his first resolution would have affirmed that the people of the several States rat-

ified this Constitution or form of Government. These are the very words of South Carolina herself, in her own act of ratification. Let, then, his first resolution tell the exact truth; let it state the fact, precisely as it exists; let it say that the people of the several States ratified a Constitution, or form of Government; and then, sir, what will become of his inference in his second resolution, which is in these words, viz. "that, as in all other cases of compact among sovereign parties, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress?" It is obvious, is it not, sir, that this conclusion requires for its support, quite other premises; it requires premises which speak of accession and of compact between sovereign Powers, and, without such premises, it is altogether unmeaning.

Mr. President, if the honorable member will truly state what the people did in forming this constitution, and then state what they must do if they would now undo what they then did, he will unavoidably state a case of revolution. Let us see if it be not so. He must state, in the first place, that the people of the several States adopted and ratified this constitution, or form of Government; and, in the next place, he must state that they have a right to undo this; that is to say, that they have a right to discard the form of Government which they have adopted, and to break up the constitution which they have ratified. Now, sir, this is neither more nor less than saying that they have a right to make a revolution. To reject an established Government, to break up a political constitution is revolution.

I deny that any man can state accurately, what was done by the people, in establishing the present constitution, and then state, accurately, what the people, or any part of them, must now do to get rid of its obligations, without stating an undeniable case of the overthrow of Government. I admit, of course, that the people may, if they choose overthrow the Government. But then that is revolution. The doctrine now contended for is, that, by *nullification* or *secession*, the obligations and authority of the Government may be set aside or rejected, without revolution. But that is what I deny; and what I say is, that no man can state the case with historical accuracy, and in constitutional language, without showing that the honorable gentleman's right, as asserted in his conclusion, is a revolutionary right merely; that it does not, and cannot exist, under the constitution, or agreeably to the constitution, but can come into existence only when the constitution is overthrown. This is the reason, sir, which makes it necessary to abandon the use of constitutional language for a new vocabulary, and to substitute, in the place of plain historical facts, a series of assumptions. This is the reason why it is necessary to give new names to things, to speak of the constitution, not as a constitution, but as a compact, and of the ratifications by the people, not as ratifications, but as acts of accession.

Sir, I intend to hold the gentleman to the written record. In the discussion of a constitutional question, I intend to impose upon him the restraints of constitutional language. The people have ordained a constitution; can they reject it without revolution? They have established a form of government; can they overthrow it without revolution? These are the true questions.

Allow me now, Mr. President, to inquire further into the extent of the propositions contained in the resolutions, and their necessary consequences.

Where sovereign communities are parties, there is no essential difference between a compact, a confederation, and a league. They all equally rest on the plighted faith of the sovereign party. A league or confederacy is but a subsisting or continuing treaty.

The gentleman's resolutions, then, affirm, in effect, that these twenty-four United States are held together only by a subsisting treaty, resting for its fulfilment and continuance on no inherent power of its own, but on the plighted faith of each State; or, in other words, that our Union is but a league; and, as a consequence from this proposition, they further affirm that, as sovereigns are subject to no superior power, the States must decide, each for itself, of any alleged violation of the league; and if such violation be supposed to have occurred, each may adopt any mode or measure of redress which it shall think proper.

Other consequences naturally follow, too; from the main proposition. If a league between sovereign powers have no limitation as to the time of its duration, and contain nothing making it perpetual, it subsists only during the good pleasure of the parties, although no violation be complained of. If, in the opinion of either party, it be violated, such party may say that he will no longer fulfil its obligations on his part, but will consider the whole league or compact at an end, although it might be one of its stipulations that it should be perpetual. Upon this principle, the Congress of the United States, in 1798, declared null and void the treaty of alliance between the United States and France, though it professed to be a perpetual alliance.

If the violation of the league be accompanied with serious injuries, the suffering party, being sole judge of his own mode and measure of redress, has a right to indemnify himself by reprisals on the offending members of the league; and reprisals, if the circumstances of the case require it, may be followed by direct, avowed, and public war.

The necessary import of the resolutions, therefore, is, that the United States are connected only by a league; that it is in the good pleasure of every State to decide how long she will choose to remain a member of this league; that any State may determine the extent of her own obligations under it, and accept, or reject, what shall be decided by the whole; that she may also determine whether her rights have been violated, what is the extent of the injury done her, and what mode and measure of redress her wrongs may make

it fit and expedient for her to adopt. The result of the whole is, that any State may secede at pleasure; that any State may resist a law which she herself may choose to say exceeds the power of Congress; and that, as a sovereign power, she may redress her own grievances, by her own arm, at her own discretion; she may make reprisals; she may cruise against the property of other members of the league; she may authorize captures, and make open war.

If, sir, this be our political condition, it is time the people of the United States understood it. Let us look for a moment to the practical consequences of these opinions. One State, holding an embargo law unconstitutional, may declare her opinion, and withdraw from the Union. *She* secedes. Another, forming and expressing the same judgment on a law laying duties on imports, may withdraw also. *She* secedes. And as, in her opinion, money has been taken out of the pockets of her citizens illegally, under pretence of this law, and as she has power to redress their wrongs, she may demand satisfaction; and, if refused, she may take it with a strong hand. The gentleman has himself pronounced the collection of duties, under existing laws, to be nothing but robbery.—Robbers, of course, may be rightfully dispossessed of the fruits of their flagitious crimes; and therefore, reprisals, impositions on the commerce of other States, foreign alliances against them, or open war, are all modes of redress justly open to the discretion and choice of South Carolina; for she is to judge of her own rights, and seek satisfaction for her own wrongs, in her own way.

But, sir, a *third* State is of my opinion, not only that these laws of impost are constitutional, but that it is the absolute duty of Congress to pass and to maintain such laws; and that, by omitting to pass and maintain them, its constitutional obligations would be grossly disregarded. She relinquished the power of protection, she might allege, and allege truly, herself, and gave it up to Congress, on the faith that Congress would exercise it. If Congress now refuse to exercise it, Congress does, as she may insist, break the condition of the grant, and thus manifestly violate the constitution; and for this violation of the constitution *she* may threaten to secede also. Virginia may secede, and hold the fortresses in the Chesapeake. The Western States may secede, and take to their own use the public lands. Louisiana may secede, if she choose, from a foreign alliance, and hold the mouth of the Mississippi. If one State may secede, ten may do so—twenty may do so—twenty three may do so. Sir, as these secessions go on, one after another, what is to constitute the United States? Whose will be the army? Whose the navy? Who will pay the debts? Who fulfil the public treaties! Who perform the constitutional guaranties? Who govern this district and the territories? Who retain the public property?

Mr. President, every man must see that these are all questions which can arise only after a revolution. They presuppose the breaking up of the Government. While the constitution lasts, they

are repressed; they spring up to annoy and startle us only from its grave.

The constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must bring these consequences with it, is revolutionary. And nullification is equally revolutionary. What is revolution? Why, sir, that is revolution, which overturns, or controls, or successfully resists the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now, sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the Executive Magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, a revolution will have commenced in South Carolina. She will have thrown off the authority to which her citizens have heretofore been subject. She will have declared her own opinions and her own will to be above the laws, and above the power of those who are entrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power, as the American revolution of 1776. That revolution did not subvert Government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power, claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress, if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases, she will relieve herself from a paramount power as distinctly as the American colonies did the same thing in 1776. In other words, she will achieve, as to herself, a revolution.

But, sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the constitution, as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire Government, appears to me the wildest illusion, and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullifica-

tion, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four and twenty distinct powers, each professing to be under a General Government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and if the laws cannot be executed every where, they cannot be long executed any where. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see, every man sees, that the only alternative is a repeal of the laws, throughout the Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded because a single State interposes her veto, and threatens resistance! The result of the gentleman's opinions, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This is precisely the evil experienced under the old confederation, and for remedy of which this constitution was adopted.

The leading object in establishing this Government, an object forced on the country by the condition of the times, and the absolute necessity of the law, was to give to Congress power to lay and collect imposts without the consent of particular States. The revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the States neglected them; there was no power of coercion, but war; Congress could not lay imposts, or other taxes, by its own authority; the whole General Government, therefore, was little more than a name. The articles of confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a Government which should have power, of itself, to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, without asking the consent of the State Governments. This was the very power on which the new constitution was to de-

pend for all its ability to do good; and, without it, it can be no Government, now or at any time. Yet, sir, it is precisely against this power, so absolutely indispensable to the very being of the Government, that South Carolina directs her ordinance. She attacks the Government in its authority to raise revenue, the very main spring of the whole system; and, if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law, but as a law for protecting manufactures. It is a revenue law; it is the very law by which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the Government for the means of maintaining itself and performing its duties.

Mr. President, the alleged right of a State to decide constitutional questions for herself, necessarily leads to force, because other States must have the same right, and because different States will decide differently; and when these questions arise between States, if there be no superior power, they can be decided only by the law of force. On entering into the Union, the people of each State gave up a part of their own power to make laws for themselves, in consideration that, as to common objects, they should have a part in making laws for other States. In other words, the people of all the States agreed to create a common Government, to be conducted by common councils. Pennsylvania, for example, yielded the right of laying imposts in her own ports, in consideration that the new Government, in which she was to have a share, should possess the power of laying imposts in all the States. If South Carolina now refuses to submit to this power, she breaks the condition on which other States entered into the Union. She partakes of the common councils, and therein assists to bind others, while she refuses to be bound herself. —It makes no difference in this case whether she does all this without reason or pretext, or whether she sets up as a reason that, in her judgment, the acts complained of are unconstitutional. In the judgment of other States, they are not so. It is nothing to them that she offers some reason or some apology for her conduct, if it be one which they do not admit. It is not to be expected that any State will violate her duty without some plausible pretext. That would be too rash a defiance of the opinion of mankind. But if it be a pretext which lies in her own breast; if it be no more than an opinion which she says she has formed, how can other States be satisfied with this? How can they allow her to be judge of her own obligations? Or, if she may judge of her obligations, may they not judge of their rights also? May not the twenty-three entertain an opinion as well as the twenty-fourth? And, if it be their right, in their own opinion, as expressed in the common council, to enforce the law against her, how is she to say that her right and her opinion are to be every thing, and their right and their opinion nothing?

Mr. President, if we are to receive the constitution as the text,

and then to lay down, in its margin, the contradictory commentaries which have been, and which may be, made by the different States, the whole page would be a polyglot indeed. It would speak with as many tongues as the builders of Babel, and in dialects as much confused, and mutually as unintelligible. The very instance now before us presents a practical illustration. The law of the last session is declared unconstitutional in South Carolina, and obedience to it is refused. In other States it is admitted to be strictly constitutional. You walk over the limit of its authority, therefore, when you pass a State line. On one side, it is a law; on the other side a nullity; and yet it is passed by a common Government, having the same authority in all the States.

Such, sir, are the inevitable results of this doctrine. Beginning with the original error, that the constitution of the United States is nothing but a compact between Sovereign States; asserting, in the next step, that each State has a right to be its own sole judge of the extent of its own obligations, and consequently of the constitutionality of the laws of Congress; and, in the next, that it may oppose whatever it sees fit to declare unconstitutional, and that it decides for itself on the mode and measure of redress, the argument arrives at once at the conclusion that what a State dissents from, it may nullify; what it opposes, it may oppose by force; what it decides for itself, it may execute by its own power; and that, in short, it is, itself, supreme over the legislation of Congress, and supreme over the decisions of the national judicature; supreme over the constitution of the country, supreme over the supreme law of the land. However it seeks to protect itself against these plain inferences, by saying that an unconstitutional law is no law, and that it only opposes such laws as are unconstitutional, yet this does not, in the slightest degree, vary the result; since it insists on deciding this question itself; and, in opposition to reason and argument, in opposition to practice and experience, in opposition to the judgment of others, having an equal right to judge, it says, only, "Such is my opinion, and my opinion shall be my law, and I will support it by my own strong hand. I denounce the law; I declare it unconstitutional; that is enough; it shall not be executed. Men in arms are ready to resist its execution. An attempt to enforce it shall cover the land with blood. Elsewhere, it may be binding; but here, it is trampled under foot."

This, sir, is practical nullification ——

And now, sir, against all these theories and opinions, I maintain—

1. That the constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a Government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

3. That there is a supreme law, consisting of the constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the General Government, and on the equal rights of other States, a plain violation of the constitution, and a proceeding essentially revolutionary in its character and tendency.

Whether the constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been, some way, clothed with power. We shall admit that it speaks with authority. The first question then is, what does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact between sovereign States? It is to be remembered, sir, that the constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed, drawn, but not executed. The convention had framed it, sent it to Congress then sitting under the confederation, Congress had transmitted it to the State Legislatures, and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular will, and was to be received as the expression of that will. What the Constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a compact? Certainly not. It uses the word compact but once, and that is when it declares that the States shall enter into no compact. Does it call itself a league, a confederacy, a subsisting treaty between the States? Certainly not. There is not a particle of such language in all its pages. But it declares itself a CONSTITUTION. What is a Constitution? Certainly not a league, compact, or confederacy, but a fundamental law. That fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the Constitution of a State. Those primary rules which concern the body itself, and the very being of the political society, the form of government, and the manner in which power is to be exercised—all, in a word, which form together the Constitution of a State, these are the fundamental laws. This, sir, is the language of the public writers. But do we need to be informed, in this country, what a Constitution is? Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the Constitution of one of

the States; and the Constitution of the United States speaks of itself as being an instrument of the same nature. It says, this Constitution shall be the law of the land, any thing in any State Constitution to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into by the United States, shall be as valid under this Constitution, as under the confederation. It does not say, as valid under this compact, or this league, or this confederation, as under the former confederation, but as valid under this Constitution.

This, then, sir, is declared to be a *constitution*. A constitution is the fundamental law of the State; and this is expressly declared to be the supreme law. It is as if the people had said, "we prescribe this fundamental law," or "this supreme law," for they do say that they establish this constitution, and that it shall be the supreme law. They say that they *ordain and establish* it. Now, sir, what is the common application of these words? We do not speak of *ordaining* leagues and compacts. If this was intended to be a compact or league, and the States to be parties to it; why was it not so said? Why is there found no one expression in the whole instrument indicating such intent? The old confederation was expressly called a *league;* and into this league it was declared that the States, as States, severally entered. Why was not similar language used in the constitution, if a similar intention had existed? Why was it not said, "the States enter into this new league," "the States form this new confederation," or "the States agree to this new compact?" Or, why was it not said, in the language of the gentleman's resolution, that the people of the several States acceded to this compact in their sovereign capacities? What reason is there for supposing that the framers of the constitution rejected expressions appropriate to their own meaning, and adopted others wholly at war with that meaning?

Again, sir, the constitution speaks of that political system, which it established as "the Government of the United States." Is it not doing strange violence to language to call a league or a compact between sovereign Powers a Government? The Government of a State is that organization in which the political power resides. It is the political being, created by the constitution or fundamental law. The broad and clear difference between a Government and a league or compact is, that a Government is a body politic; it has a will of its own; and it possesses powers and faculties to execute its own purposes. Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to ensure its execution; although, in such case, this power is but the force of one party against the force of another—that is to say, the power of war. But a Government executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments, is not war. It contemplates no opposing party having a right of re-

sistance. It rests on its own power to enforce its own will; and, when it ceases to possess this power it is no longer a Government.

Mr. President, I concur so generally in the very able speech of the gentleman from Virginia, near me, [Mr. Rives] that it is not without diffidence and regret that I venture to differ from him on any point. His opinions, sir, are redolent of the doctrines of a very distinguished school, for which I have the highest regard, of whose doctrines I can say, what I also can say of the gentleman's speech, that, while I concur in the results, I must be permitted to hesitate about some of the premises. I do not agree that the constitution is a compact between States in their sovereign capacities. I do not agree that, in strictness of language, it is a compact at all. But I do agree, that it is founded on consent or agreement; or on compact, if the gentleman prefers that word, and means no more by it than voluntary consent or agreement. The constitution, sir, is not a contract, but the result of a contract; meaning, by contract, no more, than assent. Founded on consent, it is a Government proper. Adopted by the agreement of the people of the United States, when adopted, it has become a constitution. The people have agreed to make a constitution; but when made, that constitution becomes what its name imports. It is no longer a mere agreement. Our laws, sir, have their foundation in the agreement, or consent, of the two Houses of Congress. We say, habitually, that one House proposes a bill, and the other agrees to it; but the result of this agreement is not a compact, but a law. The law, the statute, is not the agreement, but something created by the agreement; and something which, when created, has a new character, and acts by its own authority. So the constitution of the U. States, founded in or on the consent of the people, may be said to rest on compact, or consent; but it is itself not the compact, but its result. When a people agree to erect a Government, and actually erect it, the thing is done, and the agreement is at an end. The compact is executed, and the end designed by it attained. Henceforth, the fruit of the agreement exists, but the agreement itself is merged in its own accomplishment; since there can be no longer a subsisting agreement, or compact, to form a constitution or government, after that constitution or government has been actually formed and established.

It appears to me, Mr. President, that the plainest account of the establishment of this Government presents the most just and philosophical view of its foundation. The people of the several States had their separate State Governments; and between the States there also existed a confederation. With this condition of things the people were not satisfied, as the confederation had been found not to fulfil its intended objects. It was proposed, therefore, to erect a new common Government, which should possess certain definite powers, such as regarded the prosperity of the people of all the States; and to be formed upon the general model of American constitutions. This proposal was assented to; and an instrument was presented to the people of the several States for their conside-

ration. They approved it, and agreed to adopt it, as a constitution. They executed that agreement, they adopted the constitution, as a constitution, and henceforth it must stand as a constitution until it shall be altogether destroyed. Now, sir, is not this the truth of the whole matter? and is not all that we have heard of compact between sovereign States, the mere effect of a theoretical and artificial mode of reasoning upon the subject? a mode of reasoning which disregards plain facts, for the sake of hypothesis?

Mr. President, the nature of sovereignty, or sovereign power, has been extensively discussed by gentlemen on this occasion, as it generally is, when the origin of our Government is debated. But I confess myself not entirely satisfied with arguments and illustrations drawn from that topic. The sovereignty of government is an idea belonging to the other side of the Atlantic. No such thing is known in North America. Our Governments are all limited. In Europe, sovereignty is of feudal origin, and imports no more than the state of the sovereign. It comprises his rights, duties, exemptions, prerogatives, and powers. But, with us, all power is with the people. They alone, are sovereign; and they erect what Governments they please, and confer on them such powers as they please. None of these Governments is sovereign, in the European sense of the word, all being restrained by written constitutions. It seems to me, therefore, that we only perplex ourselves when we attempt to explain the relations existing between the General Government and the several State Governments, according to those ideas of sovereignty, which prevail under systems essentially different from our own.

But, sir, to return to the constitution itself, let me inquire what it relies upon for its own continuance and support. I hear it often suggested that the States, by refusing to appoint senators and electors, might bring this Government to an end. Perhaps that is true; but the same may be said of the State Governments themselves. Suppose the Legislature of a State, having the power to appoint the Governor and the Judges, should omit that duty, would not the State Government remain unorganized? No doubt, all elective Governments may be broken up, by a general abandonment, on the part of those entrusted with political powers, of their appropriate duties. But one popular Government has, in this respect, as much security as another. The maintenance of this constitution does not depend on the plighted faith of the States, as States, to support it; and this again shows that it is not a league. It relies on individual duty and obligation.

The constitution of the United States creates direct relations between this Government and individuals. This Government may punish individuals for treason, and all other crimes in the code, when committed against the United States. It has power, also, to tax individuals, in any mode, and to any extent; and it

possesses the further power of demanding from individuals military service. Nothing, certainly, can more clearly distinguish a Government from a confederation of States, than the possession of these powers. No closer relations can exist between individuals and any Government.

On the other hand, the Government owes high and solemn duties to every citizen of the country. It is bound to protect him in his most important rights and interests. It makes war for his protection, and no other Government in the country can make war. It makes peace for his protection, and no other Government can make peace. It maintains armies and navies for his defence and security, and no other Government is allowed to maintain them. He goes abroad beneath its flag, and carries over all the earth a national character imparted to him by this Government, and which no other Government can impart. In whatever relates to war, to peace, to commerce, he knows no other Government. All these, sir, are connexions as dear and as sacred as can bind individuals to any Government on earth. It is not, therefore, a compact between States, but a government proper, operating directly upon individuals, yielding to them protection on one hand, and demanding from them obedience on the other.

There is no language in the whole constitution, applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants and stipulations? And where are their rights, covenants and stipulations expressed? The States engage for nothing, they promise nothing.—In the articles of confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but, in the constitution, there is nothing of that kind. The reason is, that, in the constitution, it is the people who speak, and not the States. The people ordain the constitution, and therein address themselves to the States, and to the Legislatures of States, in the language of injunction and prohibition. The constitution utters its behests in the name and by authority of the people, and it exacts not from States any plighted faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint senators and electors. It is not a matter resting in State discretion or State pleasure. The constitution has taken better care of its own preservation. It lays its hand on individual conscience and individual duty. It incapacitates any man to sit in the Legislature of a State, who shall not first have taken his solemn oath to support the constitution of the United States. From the obligation of this oath no State power can discharge him. All the members of all the State Legislatures are as religiously bound to support the constitution of the United States, as they are to support their own State constitution. Nay, sir, they are as solemnly sworn to support it as we ourselves are, who are members of Congress.

No member of a State Legislature can refuse to proceed, at the proper time, to elect senators to Congress, or to provide for the choice of electors of President and Vice President, any more than the members of this Senate can refuse, when the appointed day arrives, to meet the members of the other House to count the votes for those officers, and ascertain who are chosen. In both cases the duty binds, and with equal strength, the conscience of the individual member, and it is imposed on all by an oath in the same words. Let it, then, never be said, sir, that it is a matter of discretion with the States, whether they will continue the Government, or break it up by refusing to appoint senators and to elect electors. They have no discretion in the matter. The members of their Legislatures cannot avoid doing either, so often as the time arrives, without a direct violation of their duty and their oaths; such a violation as would break up any other Government.

Looking still further to the provisions of the constitution itself, in order to learn its true character, we find its great apparent purpose to be, to unite the people of all the States under one General Government, for certain definite objects, and, to the extent of this union, to restrain the separate authority of the States. Congress only can declare war—therefore, when one State is at war with a foreign nation, all must be at war. The President and the Senate only can make peace; when peace is made for one State, therefore, it must be made for all.

Can any thing be conceived more preposterous, than that any State should have power to nullify the proceedings of the General Government, respecting peace and war? When war is declared by a law of Congress, can a single State nullify that law, and remain at peace? And yet, she may nullify that law, as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President, and no ingenuity of argument, no subtlety of distinction, can evade it, that, as to certain purposes, the people of the United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of imposts. The very end and purpose of the constitution was to make them one people in these particulars; and it has effectually accomplished its objects. All this is apparent on the face of the constitution itself. I have already said, sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the confederation, and forming a new constitution. Among innumerable proofs of this, before the assembling of the convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

But sir, let us go to the actual formation of the constitution, let us open the journal of the convention itself, and we shall see that

the very first resolution which the convention adopted, was, "THAT A NATIONAL GOVERNMENT OUGHT TO BE ESTABLISHED, CONSISTING OF A SUPREME LEGISLATURE, JUDICIARY, AND EXECUTIVE."

This itself completely negatives all idea of league, and compact, and confederation. Terms could not be chosen, more fit to express an intention to establish a National Government, and to banish forever all notion of a compact between sovereign states.

This resolution was adopted on the 30th of May. Afterwards, the style was altered, and, instead of being called a National Government, it was called the Government of the United States: but the substance of this resolution was retained, and was at the head of that list of resolutions which was afterwards sent to the committee who were to frame the instrument.

It is true, there were gentlemen in the convention, who were for retaining the confederation, and amending its articles; but the majority was against this, and was for a National Government. Mr. Patterson's propositions, which were for continuing the articles of confederation with additional powers, were submitted to the convention on the 15th of June, and referred to the committee of the whole. And the resolutions forming the basis of a National Government, which had once been agreed to in the committee of the whole, and reported, were recommended to the same committee, on the same day. The convention, then, in committee of the whole, on the 19th of June, had both these plans before them; that is to say, the plan of a confederacy, or compact between the States, and the plan of a National Government. Both these plans were considered and debated, and the committee reported, "That they do not agree to the propositions offered by the honorable Mr. Patterson, but that they again submit the resolutions formerly reported." If, sir, any historical fact in the world be plain and undeniable, it is that the convention deliberated on the expediency of continuing the confederation, with some amendments, and rejected that scheme, and adopted the plan of a National Government, with a legislature, an executive, and a judiciary of its own. They were asked to preserve the league; they rejected the proposition. They were asked to continue the existing compact between States; they rejected it. They rejected compact, league, and confederation; and set themselves about framing the constitution of a National Government, and they accomplished what they undertook.

If men will open their eyes fairly to the lights of history, it is impossible to be deceived on this point. The great object was to supersede the confederation, by a legal government; because, under the confederation, Congress had power only to make requisitions on States; and if States declined compliance, as they did, there was no remedy but war against such delinquent States. It would seem, from Mr. Jefferson's correspondence, in 1786, and 1787, that he was of opinion that even this remedy ought to be tried.

"There will be no money in the treasury," said he, "till the confederacy shows its teeth;" and he suggests that a single frigate would soon levy, on the commerce of a delinquent State, the deficiency of its contribution. But this would be war; and it was evident that a confederacy could not long hold together, which should be at war with its members. The constitution was adopted to avoid this necessity. It was adopted, that there might be a government which should act directly on individuals, without borrowing aid from the State Governments. This is clear as light itself on the very face of the provisions of the constitution, and its whole history tends to the same conclusion. Its framers gave the very reason for their works in the most distinct terms. Allow me to quote but one or two proofs, out of hundreds. That State, so small in territory, but so distinguished for learning and talent, Connecticut, had sent to the general convention, among other members, Samuel Johnston and Oliver Ellsworth. The constitution having been framed, it was submitted to a convention of the people of Connecticut for ratification on the part of that State, and Mr. Johnston and Mr. Ellsworth were also members of this convention. On the first day of the debates, being called on to explain the reasons which led the convention at Philadelphia to recommend such a constitution, after showing the insufficiency of the existing confederacy, inasmuch as it applied to States, as States, Mr. Johnston proceeded to say—

"The convention saw this imperfection in attempting to legislate for States in their "political capacity; that the coercion of law can be exercised by nothing but a mili- "tary force. They have, therefore, gone upon entirely new ground. They have form- "ed one new nation out of the individual States. The Constitution vests in the Gen- "eral Legislature a power to make laws in matters of national concern; to appoint "judges to decide upon these laws; and to appoint officers to carry them into execu- "tion. This excludes the idea of an armed force. The power which is to enforce "these laws, is to be a legal power, vested in proper magistrates. The force which is "to be employed, is the energy of law; and this force is to operate only upon individ- "uals, who fail in their duty to their country. This is the peculiar glory of the Con- "stitution, that it depends upon the mild and equal energy of the magistracy for the "execution of the laws."

In the further course of the debate, Mr. Ellsworth said:

"In republics it is a fundamental principle that the majority govern, and that the "minority comply with the general voice. How contrary then to republican princi- "ples, how humiliating, is our present situation. A single State can rise up, and put "a *veto* upon the most important public measures. We have seen this actually take "place; a single State has controlled the general voice of the Union, a minority, a "very small minority, has governed us. So far is this from being consistent with re- "publican principles, that it is in effect the worst species of monarchy."

"Hence we see how necessary for the Union is a coercive principle. No man pre- "tends the contrary. The only question is, shall it be a coercion of law, or a coer- "cion of arms? there is no other possible alternative. Where will those who oppose "a coercion of law come out? Where will they end? A necessary consequence of "their principles is a war of the States one against another. I am for coercion by "law; that coercion which acts only upon delinquent individuals. This Constitution "does not attempt to coerce sovereign bodies, States, in their political capacity. No "coercion is applicable to such bodies, but that of an armed force. If we should at- "tempt to execute the laws of the Union, by sending an armed force against a delin- "quent State, it would involve the good and bad, the innocent and guilty, in the same "calamity. But this legal coercion singles out the guilty individual, and punishes him "for breaking the laws of the Union."

Indeed, sir, if we look to all cotemporary history, to the writings of the Federalist, to the debates in the conventions, to the publications of friends and foes, they all agree, that a change had been made from a confederacy of States, to a different system; they all agree, that the convention had formed a Constitution for a National Government. With this result, some were satisfied, and some were dissatisfied; but all admitted that the thing had been done. In none of these various productions and publications, did any one intimate that the new Constitution was but another compact between States in their sovereign capacities. I do not find such an opinion advanced in a single instance.

Every where, the people were told that the old confederation was to be abandoned, and a new system to be tried, that a proper Government was proposed, to be founded in the name of the people, and to have a regular organization of its own. Every where, the people were told that it was to be a Government with direct powers to make laws over individuals, and to lay taxes and impost without the consent of the States. Every where it was understood to be a popular Constitution. It came to the people for their adoption, and was to rest on the same foundation as the State Constitutions themselves. Its most distinguished advocates, who had been themselves members of the convention, declared that the very object of submitting the Constitution to the people was, to preclude the possibility of its being regarded as a mere compact. "However gross a heresy," say the writers of the Federalist, "it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature, proves the necessity of laying the foundations of our national Government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE."

Such is the language, sir, addressed to the people, while they yet had the Constitution under consideration. The powers conferred on the new Government were perfectly well understood so to be conferred, not by any State, or the people of any State, but by the people of the United States. Virginia is more explicit, perhaps, in this particular, than any other State. Her convention assembled to ratify the Constitution "in the name and behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whenever the same shall be perverted to their injury or oppression."

Is this language which describes the formation of a compact between States, or language describing the grant of powers to a new Government, by the whole people of the United States?

Among all the other ratifications, there is not one which speaks of the constitution as a compact between the States. Those of

Massachusetts and New Hampshire express the transaction, in my opinion, with sufficient accuracy. They recognise the Divine goodness "in affording THE PEOPLE OF THE UNITED STATES an opportunity of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution." You will observe, sir, that it is the PEOPLE, and not the States, who have entered into this compact, and it is the PEOPLE of all the United States. These conventions, by this form of expression, meant merely to say, that the people of the United States had, by the blessing of Providence, enjoyed the opportunity of establishing a new Constitution, founded in the consent of the people. This consent of the people has been called by European writers the social compact; and, in comformity to this common mode of expression, these conventions speak of that assent, on which the new Constitution was to rest, as an explicit and solemn compact, not which the States had entered into with each other, but which the people of the United States had entered into.

Finally, sir, how can any man get over the words of the Constitution itself?—"WE, THE PEOPLE OF THE UNITED STATES, DO ORDAIN AND ESTABLISH THIS CONSTITUTION." These words must cease to be a part of the Constitution—they must be obliterated from the parchment on which they are written, before any human ingenuity or human argument can remove the popular basis on which that Constitution rests, and turn the instrument into a mere compact between sovereign States.

The second proposition, sir, which I propose to maintain, is, that no State authority can dissolve the relations subsisting between the Government of the United States and individuals; that nothing can dissolve these relations but revolution; and that, therefore, there can be no such thing as *secession* without revolution. All this follows, as it seems to me, as a just consequence, if it be first proved that the constitution of the United States is a Government proper, owing protection to individuals, and entitled to their obedience.

The people, sir, in every State, live under two Governments. They owe obedience to both. These Governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival Houses in England; nor is it a dispute between a government *de facto*, and a government *de jure*. It is the case of a division of powers, between two governments, made by the people, to which both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other: the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America; and, though new and singular, it is not incomprehensible. The State constitutions are established by the people of the States. This constitution is established by the people of all the States.—

How, then, can a State secede? How can a State undo what the people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? How can the members of her Legislature renounce their own oaths? Sir, secession as a revolutionary right, is intelligible; as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it. But, as a practical right, existing under the constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity: for it supposes resistance to Government, under the authority of Government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths, without responsibility; it supposes the total overthrow of Government, without revolution.

The Constitution, sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected, at some period, to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment, at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of Government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just political principles—whatsoever is permanent in the structure of human society—whatsoever there is which can derive an enduring character from being founded on deep laid principles of constitutional liberty, and on the the broad foundations of the public will, all these unite to entitle this instrument to be regarded as a permanent constitution of Government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the constitution. But I contend further, that it rightfully belongs to Congress, and to the courts of the United States, to settle the construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, Who is to construe finally the Constitution of the United States? We all agree that the constitution is the supreme law; but who shall intepret that law? In our system of the division of powers between different Governments, controversies will necessarily sometime arise, respecting the extent of the powers of each. Who shall decide these controversies? Does it rest with the General Government, in all or any

of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the General Government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority of the United States to overrule or reverse. Of course she rejects the authority of Congress because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the Courts of the United States, because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the constitution of the United States to be but a compact, to which she is a party, and a sovereign party. If this be established, then the inference is supposed to follow, that, being sovereign, there is no power to control her decision, and her own judgment on her own compact is and must be conclusive.

I have already endeavored, sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is, with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, sir, that a doctrine, bringing such consequences with it, is not well founded; that it has nothing to stand upon but theory and assumption; and that it is refuted by plain and express constitutional provisions. I think the Government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I thing it possesses this authority, both by necessary implication, and by express grant.

It will not be denied, sir, that this authority naturally belongs to all Governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State Governments themselves possess it, except in that class of questions which may arise between them and the General Government, and in regard to which they have surrendered it, as well by the nature of the case, as by clear constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the constitution of the State, is a question which the State Legislature or the State Judiciary must determine. We all know that these questions arise daily in the State Governments, and are decided by those Governments; and I know no Government which does not exercise a similar power.

Upon general principles, then, the Government of the United States possesses this authority; and this would hardly be denied,

were it not that there are other Governments. But since there are State Governments, and since these, like other Governments, ordinarily construe their own powers, if the Government of the United States construes its own powers also, which construction is to prevail, in the case of opposite construction? And again, as in the case now actually before us, the State Governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, sir, even if the constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain that, in a constitution existing over four and twenty States, with equal authority over all, one could claim a right of construing it for the whole. This would seem a manifest impropriety—indeed, an absurdity. If the constitution is a government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national Government. But as it is a Government, as it has a legislative power of its own, and a judicial power co-extensive with the legislative, the inference is irresistible, that this Government, thus created by the whole, and for the whole, must have an authority superior to that of the particular Government of any one part. Congress is the Legislature of all the people of the United States; the Judiciary and the General Government is the Judiciary of all the people of the United States. To hold, therefore, that this Legislature and this Judiciary are subordinate in authority to the Legislature and Judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four and twenty States might bid defiance to its authority. Without express provision in the Constitution, therefore, sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist, in a Government intended for the whole, the inevitable consequence is, that the laws of this legislative power, and the decisions of this

judicial power, must be binding on and over the whole. No man can form the conception of a Government existing over four and twenty States, with a regular legislative and judicial power, and of the existence, at the same time, of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a Government. I maintain, therefore, sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress, and the decisions of the national courts, must be of higher authority than State laws and State decisions. If this be not so, there is, there can be, no General Government.

But, Mr. President, the constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the constitution adds, as a distinct and substantive clause, the following, viz: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." If this means any thing, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it; and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, sir, to the judiciary, the Constitution is still more express and emphatic. It declares that the judicial power shall extend to all cases in law or equity arising under the Constitution, laws of the United States, and treaties; that there shall be one Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the Constitution, that is, if a case arises depending on the construction of the Constitution, the judicial power of the United States extends to it. It reaches the case, the question; it attaches the power of the national judicature to the case itself, in whatever court it may arise and exist; and in this case the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision, than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, sir, this is exactly what the Convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the Constitution. One of the first resolutions adopted by the Convention was in these words, viz: "that the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, and questions which involve the national peace and harmony." Now, sir, this either had no sensible meaning at all, or else it meant that

the jurisdiction of the national judiciary should extend to these questions with a paramount authority. It is not to be supposed that the Convention intended that the power of national judiciary should extend to these questions, and that the judicatures of the States should also extend to them, with equal power of final decision. This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil, and the apprehended danger, by increasing, still further, the chances of discordant judgments. Why, sir, has it become a settled axiom in politics, that every government must have a judicial power co-extensive with its legislative power? Certainly, there is only this reason, viz.: that the laws may receive a uniform interpretation, and a uniform execution. This object can be no otherwise attained. A statute is what it is judiciously interpreted to be; and if it be construed one way in N. Hampshire, and another way in Georgia, there is no uniform law. One Supreme Court, with appellate and final jurisdiction, is the natural and only adequate means, in any Government, to secure this uniformity. The convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now wears in the constitution. It is undeniably true, then, that the framers of the constitution intended to create a national judicial power, which should be permanent, on national subjects.—And after the constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates, [Mr. Madison] told the people that it was true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government. Mr. Martin, who had been a member of the convention, asserted the same thing to the Legislature of Maryland, and urged it as a reason for rejecting the constitution. Mr. Pinckney himself, also a leading member of the convention, declared it to the people of South Carolina. Every where, it was admitted, by friends and foes, that this power was in the constitution.—By some it was thought dangerous, by most it was thought necessary; but, by all, it was agreed to be a power actually contained in the instrument. The convention saw the absolute necessity of some control in the National Government over State laws. Different modes of establishing this control were suggested and considered. At one time it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissable; and in its place, and expressly as a substitute for it,

the existing provision was introduced; that is to say, a provision by which the federal Courts should have the authority to overrule such State laws as might be in manifest contravention of the constitution. The writers of the Federalist, in explaining the Constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped from the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the constitutional power of the General Government. Indeed, sir, allow me to ask again if the national judiciary was not to exercise a power of revision, on constitutional questions, over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this Government, unless it be for the sake of maintaining a uniformity of decision, on questions arising under the Constitution and laws of Congress, and ensuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, sir, is it possible that uniformity can be preserved.

Gentlemen appear to me, sir, to look at but one side of the question. They regard only the supposed danger of trusting a Government with the interpretation of its own powers. But will they view the question in its other aspect; will they show us how it is possible for a Government to get along with four and twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in these cases, the State would be always right, and the General Government always wrong. But, suppose the reverse; suppose the State wrong, and, since they differ, some of them must be wrong, are the most important and essential operations of the Government to be embarrassed and arrested, because one State holds a contrary opinion? Mr. President, every argument which refers the constitutionality of acts of Congress to State decision, appeals from the majority to the minority; it appeals from the common interest to a particular interest; from the councils of all to the council of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it is clear, sir, that the constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the United States the appellate tribunal in all cases, of a constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject by reading the remarks made upon it by Mr. Ellsworth, in the Convention of Connecticut; a gentleman, sir, who has left behind him, on the records of the Government of his country, proofs of the clearest intelligence

and of the deepest sagacity, as well as of the utmost purity and integrity of character. "This Constitution," says he, "defines the extent of the powers of the General Government. If the General Legislature should, at any time, overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers; if they make a law which the Constitution does not authorize, it is void; and the judiciary power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the States go beyond their limits; if they make a law which is an usurpation upon the General Government, the law is void, and upright, independent judges, will declare it to be so."

And let me only add, sir, that, in the very first session of the first Congress, with all their well known objects, both of the Convention and the people, full and fresh in his mind, Mr. Ellsworth reported the bill, as is generally understood, for the organization of the judicial department, and, in that bill, made provision for the exercise of this appellate power of the Supreme Court, in all the proper cases, in whatsoever court arising; and that this appellate power has now been exercised for more than forty years, without interruption, and without doubt.

As to the cases, sir, which do not come before the courts; those political questions which terminate with the enactments of Congress, it is of necessity that these should be ultimately decided by Congress itself. Like other Legislatures, it must be trusted with this power. The members of Congress are chosen by the people, and they are answerable to the people; like other public agents, they are bound by oath to support the Constitution. These are the securities that they will not violate their duty, nor transcend their powers. They are the same securities as prevail in other popular governments; nor is it easy to see how grants of power can be more safely guarded, without rendering them nugatory. If the case cannot come before the courts, and if Congress be not trusted with its decision, who shall decide it? The gentleman says each State is to decide it for herself. If so, then, as I have already urged, what is law in one State is not law in the other. Or if the resistance of one State compels an entire repeal of the law, then a minority, and that a small one, governs the whole country.

Sir, those who espouse the doctrines of nullification, reject, as it seems to me, the first great principle of all republican liberty; that is, that the majority must govern. In matters of common concern, the judgment of a majority must stand as the judgment of the whole. This is a law imposed on us by the absolute necessity of the case; and if we do not act upon it, there is no possibility of maintaining any Government but despotism. We hear loud and repeated denunciations against what is called majority government. It is declared, with much warmth, that a majority

government cannot be maintained in the United States. Wha then, do gentlemen wish? Do they wish to establish a minority government? Do they wish to subject the will of the many to the will of the few? The honorable gentleman from South Carolina has spoken of absolute majorities, and majorities concurrent; language wholly unknown to our Constitution, and to which it is not easy to affix definite ideas. As far as I understand it, it would teach us that the absolute majority may be found in Congress, but the majority concurrent must be looked for in the States. That is to say, sir, stripping the matter of this novelty of phrase, that the dissent of one or more States as States renders void the decision of a majority of Congress, so far as that state is concerned. And so this doctrine, running but a short career, like other dogmas of the day, terminates in nullification.

If this vehement invective against majorities meant no more than that, in the construction of government, it is wise to provide checks and balances, so that there should be various limitations on the power of the mere majority, it would only mean what the Constitution of the United States has already abundantly provided. It is full of such checks and balances. In its very organization, it adopts a broad and most effectual principle in restraint of the power of mere majorities. A majority of the people elects the House of Representatives, but it does not elect the Senate. The Senate is elected by the States, each State, having, in this respect, an equal power. No law, therefore, can pass without the assent of a majority of the Representatives of the people, and a majority of the Representatives of the States also. A majority of the Representatives of the people must concur, and a majority of the States must concur, in every act of Congress; and the President is elected on a plan compounded of both these principles. But, having composed one House of Representatives chosen by the people in each State, according to its numbers, and the other of an equal number of members from every State, whether larger or smaller, the Constitution gives to majorities in these Houses, thus constituted, the full and entire power of passing laws, subject always to the constitutional restrictions, and to the approval of the President. To subject them to any other power is clear usurpation. The majority of one House may be controlled by the majority of the other; and both may be restrained by the President's negative. These are checks and balances provided by the Constitution, existing in the Government itself, and wisely intended to secure deliberation and caution in legislative proceedings. But to resist the will of the majority in both Houses, thus constitutionally exercised; to insist on the lawfulness of interposition by an extraneous power; to claim the right of defeating the will of Congress, by setting up against it the will of a single State, is neither more nor less, as it strikes me, than a plain attempt to overthrow the Government. The constituted authorities of the United States are no longer a Government, if they be

not masters of their own will; they are no longer a Government, if an external power may arrest their proceedings; they are no longer a Government, if acts passed by both Houses, and approved by the President, may be nullified by State vetoes and State ordinances. Does any one suppose it could make any difference, as to the binding authority of an act of Congress, and of the duty of a State to respect it, whether it passed by a mere majority of both Houses, or by three-fourths of each, or the unanimous vote of each? Within the limits and restrictions of the Constitution, the Government of the United States, like all other popular Governments, acts by majorities. It can act no otherwise. Whoever, therefore, denounces the Government of majorities, denounces the Government of his own country, and denounces all free Governments. And whoever would restrain these majorities, while acting within their constitutional limits, by an external power, whatever he may intend, asserts principles, which, if adopted, can lead to nothing else than the destruction of the Government itself.

'Does not the gentleman perceive, sir, how his argument against majorities might here be retorted upon him? Does he not see how cogently he might be asked, whether it be the character of nullification to practise what it preaches? Look to South Carolina, at the present moment. How far are the rights of minorities there respected? I confess, sir, I have not known, in peaceable times, the power of the majority carried with a higher hand, or upheld with more relentless disregard of the rights, feelings, and principles of the minority: a minority embracing, as the gentleman himself will admit, a large portion of the worth and respectability of the State; a minority, comprehending, in its numbers, men who have been associated with him, and with us, in these halls of legislation; men who have served their country at home, and honored it abroad, men who would cheerfully lay down their lives for their native State, in any cause which they could regard as the cause of honor and duty; men above fear, and above reproach; whose deepest grief and distress spring from the conviction that the present proceeding of the State must ultimately reflect discredit upon her; how is this minority, how are these men regarded? They are enthralled and disfranchised by ordinances and acts of legislation, subjected to tests and oaths, incompatible, as they conscientiously think, with oaths already taken, and obligations already assumed; they are proscribed and denounced as recreants to duty and patriotism, and slaves to a foreign power; both the spirit which pursues them, and the positive measures which emanate from that spirit, are harsh and proscriptive beyond all precedent within my knowledge, except in periods of professed revolution.

It is not, sir, one would think, for those who approve these proceedings, to complain of the power of majorities.

Mr. President, all popular governments rest on two principles, or two assumptions:

First, That there is, so far, a common interest among those over whom the Government extends, as that it may provide for the defence, protection, and good government of the whole, without injustice or oppression to parts.

Second, That the representatives of the people, and especially the people themselves, are secure against general corruption, and may be trusted, therefore, with the exercise of power. Whoever argues against these principles, argues against the practicability of all free governments. And whoever admits these, must admit, or cannot deny, that power is as safe in the hands of Congress as in those of other representative bodies. Congress is not irresponsible. Its members are agents of the people, elected by them, answerable to them, and liable to be displaced or superseded at their pleasure; and they possess as fair a claim to the confidence of the people, while they continue to deserve it, as any other public political agents.

If, then, sir, the plain intention of the Convention, and the cotemporary admission of both friends and foes, prove any thing; if the plain text of the instrument itself, as well as the necessary implication from other provisions, prove any thing; if the early legislation of Congress, the course of judicial decisions, acquiesced in by all the States for forty years, prove any thing, then it is proved that there is a supreme law, and a final interpreter.

My fourth and last proposition, Mr. President, was, that any attempt by a State to abrogate or nullify acts of Congress, is an usurpation on the powers of the General Government, and on the equal rights of other States, a violation of the Constitution, and a proceeding essentially revolutionary. This is undoubtedly true, if the preceding propositions be regarded as proved. If the Government of the United States be trusted with the duty, in any department, of declaring the extent of its own powers, than a State ordinance, or act of legislation, authorizing resistance to an act of Congress, on the alleged ground of its unconstitutionality, is manifestly a usurpation upon its powers.

If the States have equal rights, in matters concerning the whole, then for one State to set up her judgment against the judgment of the rest, and to insist on executing that judgment by force, is also a manifest usurpation on the rights of other States.

If the Constitution of the United States be a Government proper, with authority to pass laws, and to give them a uniform interpretation and execution, then the interposition of a State, to enforce her own construction, and to resist, as to herself, that law which binds the other States, is a violation of the Constitution.

And if that be revolutionary which arrests the legislative, executive, and judicial power of Government, dispenses with existing oaths and obligations of obedience, and elevates another power to supreme dominion, then nullification is revolutionary. Or if that

be revolutionary, the natural tendency and practical effect of which is to break the Union into fragments, to sever all connection among the people of the respective States, and to prostrate this General Government in the dust, then nullification is revolutionary.

Nullification, sir, is as distinctly revolutionary as secession; but I cannot say that the revolution which it seeks is one of so respectable a character, Secession would, it is true, abandon the constitution altogether; but then it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a Government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet, eject their authority as to itself. It would not undertake to reconcile obedience to public authority, with an asserted right of command over that same authority. It would not be in the Government, and above the Government at the same time. But however more respectable a mode of secession may be, it is not more truly revolutionary than the actual execution of the doctrines of nullification.—Both, and each, resist the constitutional authorities; both, and each, would sever the Union, and subvert the Government.

Mr. President, having detained the Senate so long already, I will not now examine, at length, the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, sir, will show the nature of this peaceable remedy, and of the law-suit which South Carolina contemplates.

In the first place the ordinance declares the law of last July, and all other laws of the United States laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is, therefor, sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue, under the laws of the United States. It being declared unlawful to collect these duties by what is considered a fundamental law of the State, an indictment lies of course against any one concerned in such collection, and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties;" but every custom house officer *enforces payment* while he detains the goods, in order to obtain such payment. The ordinance, therefore, reaches every body concerned in the collection of duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act commonly called the replevin law, any person whose goods are seized or detained by the collector for the payment of duties, may serve out a writ of replevin, and by virtue of that writ, the goods are to be restored to him.

A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which, he is bound to employ force, if necessary. He may call out the posse, and must do so, if resistance be made. This posse may be armed or unarmed. It may come forth with military array, and under the lead of military men.—Whatever number of troops may be assembled in Charleston, they may be summoned, with the Governor, or commander in chief, at their head, to come in aid of the sheriff. It is evident, then, sir, that the whole military power of the State is to be employed, whenever necessary, in dispossessing the custom house officers, and in seizing and holding the goods, without paying the duties. This is the second step in the peaceable remedy.

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods in the custody of the collectors. But this unlawful act is to be done, and it is to be done by power. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain goods till such duties are paid or secured. But force comes and overpowers the collector, and his assistants, and takes away the goods, leaving the duties unpaid. There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized, shall be held against any attempt to retake them, by the same force which seized them.

Having thus dispossessed the officers of the government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remained to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance decrees, that all judicial proceedings founded on the revenue laws, (including, of course, proceedings in the courts of the United States) shall be null and void. This nullifies the judicial power of the United States. Then comes the test oath act. This requires all State judges and jurors in the State courts to swear that they will execute the ordinance, and all acts of the Legislature, passed in pursuance thereof. The ordinance declares, that no appeal shall be allowed from the decision of the State Courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this Government, are, therefore, these:

1. A forcible seizure of goods before the duties are paid or secured, by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining all judicial proceedings to her own State tribunals; and the

compelling of her judges and jurors of these her own courts, to take an oath beforehand, that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to *try* it, on its own merits; they only swear to *decide* it as nullification requires.

The character, sir, of these provisions, defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress, to cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the Executive, and *banish* the Judicial power of this Government. They authorize and command acts to be done, and done by force, both of numbers and of arms, which, if done, and done by force, are clearly acts of rebellion and treason.

Such, sir, are the laws of South Carolina; such sir, is the peaceable remedy of nullification. Has not nullification reached, sir, even thus early, that point of direct and forcible resistance to law, to which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced under the Union, calling for measures which thus threaten to sever and destroy it? What invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, is to justify to the country, to posterity, and to the world, this assault upon the free constitution of the United States, this great and glorious work of our fathers? At this very moment, sir, the whole land smiles in peace, and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth; or judging by the opinions of that portion of her people not embarked in these dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus, happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign States. One danger only creates hesitation; one doubt only exists to darken the otherwise unclouded brightness of that aspect, which she exhibits to the view, and to the admiration of the world. Need I say, that that doubt respects the permanency of our Union; and need I say that that doubt is now caused, more than by any thing else, by these very proceedings of South Carolina? Sir, all Europe is, at this moment, beholding us, and looking for the issue of this controversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, sir, the cause! Let the world know the cause which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk of secession.

Sir, the world will scarcely believe that this whole controversy,

and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit the fact, it will not admit the possibility that, in an enlightened age, in a free, popular republic, under a Government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppression, without evils, such as may not only be pretended, but felt and experienced; evils, not slight or temporary, but deep, permanent, and intolerable, a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the constitution; that she has a sovereign right to decide this matter; and, that, having so decided, she is authorised to resist their execution, by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, how are they shown to be thus plainly and palpably unconstitutional? Have they no countenance at all in the constitution itself? Are they quite new in the history of the Government? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world say; what will posterity say, when they learn that similar laws have existed from the very foundation of the Government; that for thirty years the power was never questioned; and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts, is an express power, granted by the constitution to Congress. It is also, an exclusive power; for the constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power

is unlimited in the terms of the grant, but is attended with two specific restrictions; first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, and being attended with these two restrictions, and no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the constitution was adopted, includes a right of discriminating, while exercising the power, and of laying some duties heavier, and some lighter, for the sake of encouraging our own domestic products, what authority is there for giving to the words used in the constitution a new, narrow, and unusual meaning? All the limitations which the constitution intended, it has expressed; and what it has left unrestricted, is as much a part of its will, as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the motive. How, sir, can a law be examined on any such ground? How is the motive to be ascertained? One House, or one member, may have one motive; the other House, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be unconstitutional now, and another law, in exactly the same words, perfectly constitutional next year. Besides, articles may not only be taxed, for the purpose of protecting home products, but other articles may be left free, for the same purpose, and with the same motive. A law, therefore, would become unconstitutional from what it omitted as well as what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of the power, its authority must be admitted until it is repealed. This rule, every where acknowledged, every where admitted, is so universal, and so completely without exception, as that even an allegation of fraud, in the majority of a Legislature, is not allowed as a ground to set aside a law.

But, sir, is it true, that the motive for these laws is such as is stated? I think not. The great object of all these laws is, unquestionably, REVENUE. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them.—And as yet, we have collected none too much revenue. The treasury has not been more exhausted for many years than at the present moment. All that South Carolina can say, is, that in passing the laws which she now undertakes to nullify, particular articles were taxed from a regard to the protection of domestic

articles, higher than they would have been, had no such regard been entertained. And she insists that according to the constitution, no such discrimination can be allowed; that duties should be laid for revenue, and revenue only; and that it is unlawful to have reference, in any case, to protection. In other words, she denies the power of DISCRIMINATION. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the constitution, which she insists has taken place, is simply the exercise of the power of DISCRIMINATION. Now, sir, is the exercise of this power of discrimination plainly and palpably unconstitutional? I have already said the power to lay duties is given by the constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce in another distinct provision. It is clear and palpable, sir, can any man say it is a case beyond doubt, that under these two powers Congress may not justly discriminate in laying duties for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions? Sir, what ought to conclude this question forever, as it would seem to me, is, that the regulation of commerce, and the imposition of duties are, in all commercial nations, powers avowedly and constantly exercised for this very end. That undeniable truth ought to settle the question; because the constitution ought to be considered, when it uses well known language, as using it in its well known sense. But it is equally undeniable that it has been, from the very first, fully believed that this power of discrimination was conferred on Congress; and the constitution was itself recommended, urged upon the people, and enthusiastically insisted on, in some of the States, for that very reason. Not that, at that time, the country was extensively engaged in manufactures, especially of those kinds now existing. But the trades and crafts of the seaport towns, the business of the artizans, and manual laborers, these employments, the work of which supplies so great a portion of the daily wants of all classes, all these looked to the new constitution as a source of relief from the severe distress which followed the war. It would, sir, be unpardonable, at so late an hour, to go into details on this point; but the truth is as I have stated. The papers of the day, the resolutions of public meetings, the debates in the conventions, all that we open our eyes upon, in the history of the times, prove it.

The honorable gentleman, sir, from South Carolina, has referred to two incidents connected with the proceedings of the Convention at Philadelphia, which he thinks are evidence to show that the power of protecting manufactures, by laying duties, and by commercial regulations, was not intended to be given by Congress. The first is, as he says, that a power to protect manufac-

tures was expressly proposed, but not granted. I think, sir, the gentleman is quite mistaken in relation to this part of the proceedings of the Convention. The whole history of the occurrence to which he alludes is simply this: Towards the conclusion of the Convention, after the provisions of the constitution had been mainly agreed upon, after the power to lay duties and the power to regulate commerce had both been granted, a long list of propositions was made, and referred to the committee, containing various miscellaneous powers, some or all of which it was thought might be properly vested in Congress. Among these, was a power to establish a university; to grant charters of incorporation; to to regulate stage coaches on the post roads; and also the power to which the gentleman refers, and which is expressed in these words: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures." The committee made no report on this or various other propositions in the same list. But the only inference from this omission is, that neither the committee nor the Convention thought it proper to authorize Congress "to establish public institutions, rewards and immunities" for the promotion of manufactures, and other interests. The Convention supposed it had done enough, at any rate it had done all it intended, when it had given to Congress, in general terms, the power to lay imposts and the power to regulate trade. It is not to be argued, from its omission to give more, that it meant to take back what it had already given. It had given the impost power; it had given the regulation of trade; and it did not deem it necessary to give the further and distinct power of establishing public institutions.

The other fact, sir, on which the gentleman relies, is the declaration of Mr. Martin, to the Legislature of Maryland. The gentleman supposes Mr. Martin to have urged against the constitution that it did not contain the power of protection. But, if the gentleman will look again at what Mr. Martin said, he will find, I think, that what Mr. Martin complained of was, that the constitution, by its prohibitions on the States, had taken away from the States themselves the power of protecting their own manufactures by duties on imports. This is undoubtedly true; but I find no expression of Mr. Martin intimating that the constitution had not conferred on Congress the same power which it had thus taken from the States.

But, sir, let us go to the first Congress; let us look in upon this and the other House, at the first session of their organization.

We see in both Houses men distinguished among the framers, friends, and advocates, of the constitution. We see in both those who had drawn, discussed, and matured the instrument in the Convention, explained and defended it before the people, and were now elected members of Congress to put the new Government into motion, and to carry the powers of the constitution into beneficial exetion.

At the head of the Government was Washington himself, who had been President of the Convention, and in his cabinet were others most thoroughly acquainted with the history of the constitution, and distinguished for the part taken in its discussion.

If these persons were not acquainted with the meaning of the constitution; if they did not understand the work of their own hands, who can understand it, or who shall now interpret it to us.

Sir, the volume which records the proceedings and debates of the first session of the House of Representatives, lies before me. I open it, and I find that, having provided for the administration of the necessary oaths, the very first measure proposed for consideration is, the laying of imposts; and in the very first Committee of the Whole into which the House of Representatives ever resolved itself, on this its earliest subject, and in this its very first debate, the duty of so laying the imposts as to encourage manufactures was advanced, and enlarged upon by almost every speaker: and doubted or denied by none. The first gentleman who suggests this as the clear duty of Congress, and as an object necessary to be attended to, is Mr. Fitzsimons, of Pennsylvania; the second Mr. White of *Virginia*; the third Mr. Tucker, of *South Carolina*.

But the great leader, sir, on this occasion, was Mr. Madison.—Was he likely to know the intentions of the convention and the people? Was he likely to understand the constitution?

At the second sitting of the committee, Mr. Madison explained his own opinions on the duty of Congress, fully and explicitly. I must not detain you, sir, with more than a few short extracts from these opinions, but they are such as are clear, intelligible and decisive.

"The States," says he, "that are most advanced in population, and ripe for manufactures, ought to have their particular interest attended to, in some degree. While these States retained the power of making regulations of trade, they had the power to cherish such institutions. By adopting the present constitution, they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here."

In another report of the same speech, Mr. Madison is represented as using still stronger language; as saying that the constitution, having taken this power away from the States, and conferred it on Congress, it would be a fraud on the States and on the people, were Congress to refuse to exercise it.

Mr. Madison argues, sir, on this early and interesting occasion, very justly and liberally in favor of the general principles of unrestricted commerce. But he argues also, with equal force and clearness, for certain important exceptions to these general principles.

The first, sir, respects those manufactures which had been brought forward under encouragement by the State Governments. "It would be cruel," says Mr, Madison, "to neglect them, and to divert their industry into other channels, for it is not possible for the hand of man to shift from one employment to another without being injured by the change." Again: "There may be some manufactures which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fostering hand of Government will be unable to go on at all. Legislative provision, therefore, will be necessary to collect the proper objects for this purpose; and this will form another exception to my general principle." And again: "The next exception that occurs is one on which great stress is laid by some well informed men, and this with great plausibility; that each nation should have within itself, the means of defence, independent of foreign supplies; that, in whatever relates to the operations of war no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark, and therefore it is proper for legislative attention."

In the same debate, sir, Mr. Burk, from South Carolina, supported a duty on hemp, for the express purpose of encouraging its growth on the strong lands of South Carolina. "Cotton," he said, "was also in contemplation among them, and if good seed could be procured, he hoped might succeed." Afterwards, sir, the cotton seed was obtained, its culture was protected, and it did succeed.—Mr. Smith, a very distinguished member from the same State, observed: "It has been said, and justly, that the States which adopted this constitution expected its administration would be conducted with a favorable hand. The manufacturing States wished the encouragement of manufactures; the maritime States the encouragement of ship-building; and the agricultural States the encouragement of agriculture."

Sir, I will detain the Senate by reading no more extracts from these debates. I have already shown a majority of the members of South Carolina, in this very first session, acknowledging this power of protection, voting for its exercise, and proposing its extension to their own products. Similar propositions came from Virginia; and, indeed, sir, in the whole debate, at whatever page you open the volume, you find the power admitted, and you find it applied to the protection of particular articles, or not applied, according to the discretion of Congress. No man denied the power—no man doubted it; the only questions were, in regard to the several articles proposed to be taxed, whether they were fit subjects for protection, and what the amount of that protection ought to be. Will gentlemen, sir, now answer the argument drawn from those proceedings of the first Congress? Will they undertake to deny that that Congress did act on the avowed principle of protection? Or, if they admit it, will they tell us how those who framed the constitution

fell, thus early, into this great mistake about its meaning? Will they tell us how it should happen that they had so soon forgotten their own sentiments, and their own purposes? I confess I have seen no answer to this argument, nor any respectable attempt to answer it. And, sir, how did this debate terminate? What law was passed? There it stands, sir, among the statutes, the second law in the book. It has a preamble, and that preamble expressly recites, that the duties which it imposes are laid "for the support of Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures." Until, sir, this early legislation, thus coeval with the constitution itself, thus full and explicit, can be explained away, no man can doubt of the meaning of that instrument.

Mr. President, this power of discrimination, thus admitted, avowed, and practised upon, in the first revenue act, has never been denied or doubted until within a few years past. It was not at all doubted, in 1816, when it became necessary to adjust the revenue to a state of peace. On the contrary, the power was then exercised not without opposition as to its expediency, but, as far as I remember, or have understood, without the slightest opposition founded on any supposed want of constitutional authority. Certainly, South Carolina did not doubt it. The tariff of 1816 was introduced, carried through, and established, under the lead of South Carolina. Even the minimum policy is of South Carolina origin. The honorable gentleman himself supported, and ably supported, the tariff of 1816. He has informed us, sir, that his speech on that occasion was sudden and off-hand, he being called upon by the request of a friend. I am sure the gentleman so remembers it, and that it was so; but there is, nevertheless, much method, arrangement, and clear exposition, in that extempore speech. It is very able, very, very much to the point, and very decisive. And in another speech, delivered two months earlier, on the proposition to repeal the internal taxes, the honorable gentleman had touched the same subject and had declared, "that a certain encouragement ought to be extended, at least to our woollen and cotton manufactures." I do not quote these speeches, sir, for the purpose of showing that the honorable gentleman has changed his opinion; my object is other, and higher. I do it for the sake of saying, that that cannot be so plainly and palpably unconstitutional, as to warrant resistance to law, nullification, and revolution, which the honorable gentleman and his friends have heretofore agreed to, and acted upon, without doubt and without hesitation. Sir, it is no answer to say, that the tariff of 1816 was a revenue bill. So are they all revenue bills. The point is, and the truth is, that the tariff of 1816, like the rest, did discriminate; It did distinguish one article from another; it did lay duties for protection.

Look to the case of coarse cottons, under the minimum calculation; the duty on these was sixty to eighty per cent. Some-

thing besides revenue certainly was intended in this; and, in fact, the law cut up our whole commerce with India in that article. It is, sir, only within a few years that Carolina has denied the constitutionality of these protective laws. The gentleman himself has narrated to us the true history of her proceedings on this point. He says that, after the passing of the law of 1828, despairing then of being able to abolish the system of protection, political men went forth among the people, and set up the doctrine that the system was unconstitutional. "And the People," says the honorable gentleman, "received the doctrine." This, I believe is true, sir. The people did then receive the doctrine; they had never entertained it before. Down to that period, the constitutionality of these laws had been no more doubted in South Carolina, than elsewhere. And I suspect it is true, sir, and I deem it a great misfortune, that, to the present moment, a great portion of the people of the State have never yet seen more than one side of the argument. I believe that thousands of honest men are involved in scenes now passing, led away by one-sided views of the question, and following their leaders by the impulses of an unlimited confidence. Depend upon it, sir, if we can avoid the shock of arms, a day for reconsideration and reflection will come; truth and reason will act with their accustomed force, and the public opinion of South Carolina will be restored to its usual constitutional and patriotic tone.

But, sir, I hold South Carolina to her ancient, her cool, her uninfluenced, her deliberate opinions. I hold her to her own admissions, nay, to her own claims and pretensions, in 1789, in the first Congress, and to her acknowledgments and avowed sentiments through a long series of succeeding years. I hold her to the principles on which she led Congress to act in 1816; or, if she has changed her own opinions, I claim some respect for those who still retain the same opinions. I say she is precluded from asserting that doctrines which she has herself so long and so ably sustained, are plain, palpable, and dangerous violations of the constitution.

Mr. President, if the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skilful "architects of ruin," the most effectual extinguishers of high raised expectation, the greatest blasters of human hopes, which any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative government had failed. They would send forth sounds, at the hearing of which the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes, of those who now feed their inherent love of liberty on the success of the American example, would turn away from beholding our dismemberment, and find no place

on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion, and revolution, would be celebrated the funeral rites of constitutional and republican liberty.

But, sir, if the Government do its duty; if it act with firmness and with moderation, these opinions cannot prevail. Be assured, sir, be assured, that, among the political sentiments of this people, the love of union is still uppermost. They will stand fast by the constitution, and by those who defend it. I rely on no temporary expedients—on no political combination—but I rely in the true American feeling, the genuine patriotism of the people, and the imperative decision of the public voice. Disorder and confusion, indeed, may arise; scenes of commotion and contest are threatened, and perhaps may come. With my whole heart, I pray for the continuance of the domestic peace and quiet of the country. I desire most ardently the restoration of affection and harmony to all its parts. I desire that every citizen of the whole country may look to this Government with no other sentiments but those of grateful respect and attachment. But I cannot yield, even to kind feelings, the cause of the constitution, the true glory of the country, and the great trust which we hold in our hands for succeeding ages. If the constitution cannot be maintained without meeting these scenes of commotion and contest, however unwelcome, they must come. We cannot, we must not, we dare not omit to do that which, in our judgment, the safety of the Union requires. Not regardless of consequences, we must yet meet consequences; seeing the hazards which surround the discharge of public duty, it must yet be discharged. For myself, sir, I shun no responsibility justly devolving on me, here or elsewhere, in attempting to maintain the cause. I am tied to it by indissoluble bands of affection and duty, and I shall cheerfully partake in its fortunes and its fate. I am ready to perform my own appropriate part whenever and wherever the occasion may call on me, and to take my chance among those upon whom blows may fall first and fall thickest. I shall exert every faculty I possess in aiding to prevent the constitution from being nullified, destroyed, or impaired; and even should I see it fall, I will still, with a voice, feeble perhaps, but earnest as ever issued from human lips, and with fidelity and zeal, which nothing shall extinguish, call on the PEOPLE to come to its rescue.